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A FINANCIAL HISTORY OF TEXAS

BY

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24

The benefits of education and of useful knowledge, generally diffused through a community, are essential to the preservation of a free government.

Sam Houston.

Cultivated mind is the guardian genius of democracy. . . . It is the only dictator that freemen acknowledge and the only security that freemen desire.

President Mirabeau B. Lamar.

253955

PREFACE.

The increasing number of histories of Texas and of books about Texas testify to the appeal which the history of the state has alike to its sons and daughters and to those who are foreign to its soil. Texas has been under the flags of France, Spain, Mexico, the Republic of Texas, the Confederate States of America and the United States, and the scroll which records these changing fortunes has attracted the novelist, the political historian, the student of imperialism and of colonizing movements, and finally the economic and financial historian. Just as its political history is the most fascinating of any of the American states, so its financial history is varied, frequently spectacular, usually interesting, and always illustrative of either the principles or the fallacies of public finance.

William Gouge published in 1852 his *Fiscal History of Texas*, but outside of his book the finances of the state have had no historian until the present writer undertook the task. The suggestion of the undertaking came from the Carnegie Institution, and the author is under grateful obligations to it for material assistance.

The chief difficulty met with in the work has been the complete absence of financial reports for some years and the many imperfections in the reports extant. Too often do the reports of the state's financial officials seem to have been gotten out in a perfunctory way and merely to meet the minimum requirements of the law, and the author is convinced that a decided reform must occur if the reports are to fulfill their purpose of presenting to the average citizen an intelligible conception of the financial operations of the state government. The tax system of the state is and always has been defective and is sorely in need of change if the most elementary justice is to be done among men. If this financial history can arouse any interest in the state's fiscal problems, or if it can be of any use to those who are already interested in these problems, the writing of the book will be justified.

The chapters dealing with the Civil War and the Reconstruction were first published in the *Quarterly of the Texas*

State Historical Association, and are included here in a somewhat modified form.

The author wishes to express his deep appreciation to Professor Charles J. Bullock, of Harvard University, and Professor Henry B. Gardner, of Brown University, for many valuable suggestions. He also gratefully acknowledges the aid of Emily Maverick Miller in reviewing and criticizing the manuscript before publication.

EDMUND THORNTON MILLER.

Austin, Texas, June, 1916.

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PART I.

CHAPTER 1.

THE SPANISH-MEXICAN PERIOD.

On January 17, 1821, when Moses Austin was given permission by the Spanish authorities to introduce three hundred families into Texas, that Spanish colonial possession was a wilderness except for roving Indian tribes, some monastic settlements, Spanish soldiers, and a few American squatters.¹ Austin died soon after the favorable answer to his petition, and the work of carrying out the enterprise fell to his son, Stephen F. Austin.² Shortly after the latter's arrival in Texas in 1822, he was told by the Spanish governor at Bexar of the Mexican revolution, and was advised to go to Mexico and get the concession confirmed. Austin had no sooner arrived in Mexico than another change in government occurred, by which Don Augustin Iturbide made himself emperor. A colonization law was enacted January 24, 1823, and on February 18, 1823, the emperor affirmed by decree Austin's grant. A revolution soon overthrew Iturbide, however, and it devolved upon Austin to secure from the newly established federal government a confirmation of his concession. This was obtained April 14, 1823, and Austin then returned to Texas to organize his colony. Other empresarios also obtained grants conformable to the colonization laws, and the influx of Americans into Texas began.³

Texas and Coahuila were one state in the Mexican federal system, and a state constitution was adopted March 11, 1827. This constitution remained in effect until March 2, 1836, when the Texans declared their independence of Mexico.

¹In 1820 the estimated population, exclusive of Indians, was 4,000; Garrison, *Texas*, p. 124.

²Stephen F. Austin's account of the beginnings of this colony is reprinted in Gammel, *Laws of Texas*, Vol. I. See also Wooten, *A Comprehensive History of Texas*, vol. I, pp. 439-493.

³An estimate of the population in 1827 is 10,000 exclusive of Indians; Garrison, *Texas*, p. 156.

The finances and financial arrangements of this period of Texas history are very obscure.¹

It appears from the laws and decrees that the revenue came from tithes,² excise,³ stamp,⁴ and customs duties;⁵ and from taxes on income⁶ and on the export of coin and silver bullion.⁷ Other sources were the sale of the right of cock pit locations,⁸ the monopoly of the sale of tobacco,⁹ and taxes on billiard tables,¹⁰ on the slaughtering of stock,¹¹ and the capturing of mus-tangs and wild cattle.¹² Forced loans also were employed on occasions.¹³

From most of these taxes the new American settlements were exempt for a period of from six to ten years.¹⁴ Exemption from certain taxes was given subsequently to the Spanish settlements

¹The Mexican archives in the City of Mexico and the Bexar archives at the University of Texas may when investigated throw light on the period. In the meantime, as one writer has said, "one is puzzled to know whence came the revenues of Texas while a part of the Mexican confederacy"; E. C. Barker, "The Finances of the Texas Revolution," in the *Political Science Quarterly*, vol. 19, p. 612.

²Decree No. 34; Gammel, op. cit., vol. 1, p. 200. Decree No. 238; *ibid.*, p. 332.

³Decree No. 14; *ibid.*, p. 124. Decree No. 85; *ibid.*, p. 228. Decree No. 107; *ibid.*, p. 247. Decree No. 202; *ibid.*, p. 310.

⁴Decree No. 11; *ibid.*, p. 120.

⁵Decree No. 94; *ibid.*, p. 241.

⁶Decree No. 90; *ibid.*, p. 233.

⁷Decree No. 79; *ibid.*, p. 224. Decree No. 209; *ibid.*, p. 313.

⁸Decree No. 2; *ibid.*, p. 173.

⁹Decree No. 15; *ibid.*, p. 124.

¹⁰Decree No. 2; *ibid.*, p. 173. Decree No. 169; *ibid.*, p. 286.

¹¹Decree No. 279; *ibid.*, p. 381.

¹²Decree No. 8; *ibid.*, p. 178.

¹³Decree No. 105; *ibid.*, p. 245. Decree No. 171; *ibid.*, p. 288. Decree No. 305; *ibid.*, p. 404.

¹⁴Colonization law of 1823, articles 24 and 25; Gammel, op. cit., vol. 1, p. 30. This law controlled Austin's colony, and provided for an exemption for six years. The colonization law of March 24, 1825, and the decree of February 9, 1828, governed the other colonies, and provided for an exemption for ten years; *ibid.*, pp. 130, 207.

also, on the ground that the dutiable articles were necessities, or that the taxes would burden agriculture.¹

No mention is made in the laws and decrees of a direct tax on land. Land dues, however, were probably an important source of revenue. The state colonization law provided that new settlers should pay as dues to the state \$30 for each *sitio* of pasture land, \$3.50 for each irrigable *labor*, and \$2.50 for each non-irrigable *labor*.²

All the colonists were required to pay land dues, and were subject also to stamp taxes on legal documents giving title to property.³ The tobacco monopoly was in force throughout all the colonies. Six years after its beginning, customs duties became applicable to Austin's colony and were immediately applied. They irritated the colonists, as is shown by the friction in 1830 at Anahuac between the citizens and the customs' officials, and by the petition to the General Congress from the convention which met at San Felipe de Austin, October 1, 1830.⁴ This petition represented that the tariff then in effect was so high as to be equivalent to a total prohibition, and it asked for the privilege of introducing free of duty for three years indispensable articles, such as provisions, farming implements, tools, cotton bagging, household and kitchen furniture, clothing, shoes, hats, powder and shot.⁵

There is much obscurity also as to what were the fiscal machinery and methods employed during this period. The collection of stamp taxes was in Austin's colony in the hands of Austin himself, and returns were made by him to the commissioner appointed by the governor of the state.⁶ After the

¹Malze, beans, and pepper were exempt from excise duties. Decree No. 14; Gammel, op. cit., vol. 1, p. 186. Raw cotton, horses, cattle, and smaller stock, and sugar plantations, vineyards, and the products thereof were exempt for twelve years. Decrees Nos. 176 and 298; Gammel, op. cit., vol. 1, pp. 291, 396.

²Article 22; Gammel, op. cit., vol. 1, p. 43. A *labor* was about 200 acres, a *sitio* about 4,400 acres.

³Decree No. 43; Gammel, op. cit., vol. 1, p. 207.

⁴Edna Rowe, "The Disturbances at Anahuac in 1832," in *The Quarterly of the Texas State Historical Association*, vol. 6, pp. 265-299. Also Garrison, *Texas*, p. 176.

⁵Proceedings of the Convention; Gammel, op. cit., vol. 1, p. 485.

⁶Ibid., p. 18.

organization of an ayuntamiento, or elective town council, in this and the other colonies, this body performed in connection with its other duties those of a fiscal character.¹

There were excise agencies in the departments, and receivers' offices in the municipalities. The excise agent in some cases sold the tobacco and stamped paper.² These agents and the receivers of the customs were appointed by the governor. Returns were made by them to the state treasurer who, in turn, made his report to the governor; and the governor, in turn, communicated it to congress. This body fixed the amount of taxes to be raised, according to the estimate of the expenditures presented by the governor.³

The revenue during this period was inadequate to meet the wants of the state government. Complaints are frequent in the laws and decrees of the "reduced state of the treasury," and offices were discontinued from time to time owing to the insufficiency of public means.⁴

The period is not important for any influence exerted upon subsequent periods. The fiscal organization was of a character foreign to the Americans, and was not continued by them when control passed into their hands. It could not be employed during the Revolution, and new expedients for raising revenue had to be found. The revenue from taxes must have been inconsiderable during this period, in view of the exemptions granted. Except for the years when the tariff was in effect taxation could not have been very burdensome, and there is little evidence that it was one of the causes of the Revolution.⁵

¹Article 23 of the colonization law of 1825; *ibid.*, p. 102.

²Decree No. 132; *ibid.*, p. 259.

³Decree No. 11; *ibid.*, p. 184.

⁴Decree No. 50; *ibid.*, p. 211. Decree No. 144; *ibid.*, p. 266.

⁵Burnet, who was president *ad interim*, said in a message of October 4, 1836, "the experience of the nation from which we have descended affords abundant testimony of the pernicious consequences of an over-charged tariff"; House Journal, 1st Tex. Cong., First Session, p. 15. This statement and the petition of the general convention which met at San Felipe de Austin throw light on the character of the Mexican tariff. Although the tariff was not singled out for indictment at the time independence was declared, there is little doubt but that it was obnoxious enough to have exerted some influence.

See for a general account of this period Barker, Potts, and Ramsdell, *A School History of Texas*, ch. 5.

CHAPTER 2.

THE REVOLUTION.

From October 11, 1835, the date of the formation of the Permanent Council, to October 22, 1836, when the permanent government of the Republic of Texas was inaugurated, governmental functions were performed by five different bodies: (1) The Permanent Council, October 11, 1835, to November 1, 1835; (2) the Consultation, November 1 to November 14, 1835, which body organized a provisional government whose organ was (3) the General Council, which acted from November 14, 1835, to March 1, 1836; (4) the General Convention, March 1 to March 17, 1836, which put forth the declaration of Texas independence, framed and adopted a constitution, and provided a government *ad interim*; and (5) the government *ad interim*, which was established on March 16, 1836, and exercised authority until October 22, 1836, when General Sam Houston, the duly elected president of the republic, was installed.

The separation from Mexico was begun under the Permanent Council. This body was without resources, and its financial operations were insignificant.¹ Receipts under it amounted to \$374.30, of which \$316 was from loans and \$58.30 from land dues.² The entire amount was expended on the army.

The receipts under the Consultation were larger on account of donations received. The agent at New Orleans reported subscriptions amounting to \$7,000; and other donations aggregating \$3,200 were made.³ A loan of \$500 was also contracted with Thomas F. McKinney, a member of the Consultation body.⁴

Upon the establishment of the provisional government, an organization of the finances was attempted. A treasurer was

¹The Journal of the Permanent Council is printed in the *Quarterly of the Texas State Historical Association*, vol. 17, pp. 252-78.

²Journal of the Consultation, in Gammel, op. cit., vol. 1, p. 513. Barker, in *Pol. Sci. Quart.*, vol. 19, p. 614.

³Journal of the Consultation in Gammel, op. cit., vol. 1, p. 524. Barker, in *Pol. Sci. Quart.*, vol. 19, p. 622.

⁴Journal of the Consultation, in Gammel, op. cit., vol. 1, p. 521.

appointed and his duties defined.¹ The offices of auditor and comptroller were also created, and it was made the duty of these officers to audit all claims, and to draw drafts on the treasurer, the auditor signing, the comptroller countersigning them.²

The main resource of Texas in her struggle for independence was her public lands. These she offered to all who would engage in her service, and upon them she based the use of her public credit. The General Council in November and December, 1835, granted a bounty of 640 acres, later increased to 800 acres, to each private and non-commissioned officer in the regular army, and volunteers were rewarded according to the length of their service.³ But land was a drug on the market, and had to be supplemented by other means of getting revenue.

The need of immediate funds made the resort to direct taxes impracticable, so customs—or import—and tonnage duties were used instead.⁴ On December 12, 1835, a customs duty of 20 per cent was levied upon goods entitled to a drawback in the port from which they were shipped, and 10 per cent upon goods not so entitled. Goods brought by immigrants for their own use were exempt.⁵ A supplementary ordinance of December 15, 1835, imposed a tonnage duty of \$1.25, and a specific duty of 12½ cents a gallon on whiskey, American gin, rum, and brandy.⁶ On December 27, 1835, another law was passed which levied 25 per cent and 15 per cent duties respectively upon goods entitled and goods not entitled to drawbacks, left the specific and tonnage duties unchanged, and put bacon, pork, breadstuffs and lumber for building on the free list.⁷ This early revision of the customs law was done primarily to safeguard the col-

¹Ordinances and Decrees, in Gammel, op. cit., vol. 1, p. 928.

²Ibid., p. 1003.

³Ibid., pp. 926, 952, 991.

⁴The committee on finance, reporting November 27, 1835, rejected dependence on the sale of public land and the taxation of land because they required too much time to get into operation. It recommended customs and tonnage duties, an export duty on cotton, and a direct tax on each slave; Proceedings of the General Council in Gammel, op. cit., vol. 1, 594.

⁵Gammel, op. cit., vol. 1, pp. 983-9.

⁶Ibid., p. 990.

⁷Ibid., pp. 1008-17.

lection of duties by requiring larger bonds from collectors and to prevent the delay in payment of duties permitted by the first act.¹ The amount derived from these duties is unknown. It must have been small however, for the acts were anticipated by the merchants.² An incomplete report of the collector for the department of Brazos shows receipts up to July 31, 1836, of only \$797.62. Furthermore, the Convention decided March 12, 1836, that the provisional government had exceeded its authority in levying customs duties, declared the acts null and void, and resolved to refund the amounts paid.³

Stamp duties, land dues, and the sale of public property were also sources of a small revenue.⁴ But these, as were the taxes, were received to an undetermined amount in the form of audited drafts.

A more important source of ready means was donations from sympathetic friends in the United States and from Texans. These amounted to about \$25,000 in money and in goods, and were usually used in the place where they were given in the purchase of munitions of war and in the equipment of volunteers.

The most important source of available funds, however, was loans.⁵ An ordinance and decree of December 5, 1835, authorized a loan of \$1,000,000 and provided for three commissioners who should seek to negotiate it in the United States. The commissioners appointed were Stephen F. Austin, Branch T. Archer, and William H. Wharton. Either in a body or individually they visited New Orleans, Nashville, Louisville, Washington, Phila-

¹Proceedings of the General Council, December 19, 1835, in Gammel, *op. cit.*, vol. 1, p. 683.

²Proceedings of the General Council, January 4, 1836; *ibid.*, p. 734.

³Proceedings of the Convention, in Gammel, *op. cit.*, vol. 1, p. 886.

⁴The committee of the General Council reported in November 27, 1835, that \$1,678.77 had been received from land dues, and \$250 from the sale of stamped paper. From the sale of supplies captured in December, 1835, \$1,271.99 was received in the form of promissory notes; Barker, in *Pol. Sci. Quart.*, vol. 19, pp. 625-6.

⁵In their report on November 27, 1835, the committee on finance said: "Your committee have not been able to fix upon a project possessing in greater degree all the essential requisites of speedy operation, and combining celerity and certainty in its accomplishment, than that suggested by a loan"; Proceedings of the General Council, in Gammel, *op. cit.*, vol. 1, 596.

delphia, New York, and Richmond in their efforts to place the loan.¹ The bonds were to be of the denomination of \$1000, to bear interest not exceeding 10 per cent, and to be redeemable in not less than five years nor more than ten years.² On the basis of this law two loans aggregating \$250,000 were made in New Orleans in January, 1836. They were both subscribed by syndicates. The first, known as the Triplett Loan, was for \$200,000, ten per cent of which was paid down. The second, known as the Erwin Loan, was for \$50,000, and, according to Gouge, \$45,802 of it was received.³ Although nominally loans, these were really contracts for the purchase of land. According to the terms granted by the commissioners, should the subscribers elect to take land in payment, they were to have priority in its location over all grants made after the date of the loan. Such opposition was manifested against this privilege of priority, on the ground that it was unjust to the soldiers and others in the actual service, that the government refused to ratify the terms, and proposed to refund the money.⁴ Compromise was attempted and hickerings followed, but the matter was finally adjusted on the basis of a land payment.⁵ These two loans, with several smaller ones, yielded, it is estimated, about \$100,000.⁶

Finally, on January 20, 1836, the issue of \$150,000 of treasury notes was authorized. The notes were to be in denominations of from \$1 to \$1000, were receivable in payment of public lands and dues, and were redeemable with any money in the treasury not otherwise appropriated.⁷ One of the last acts also of the

¹Texas Diplomatic Correspondence, vol. 1, p. 111.

²Gammel, op. cit., vol. 1, p. 948. Texas Diplomatic Correspondence, vol. 1, pp. 51-52.

³*Fiscal History of Texas*, p. 53. Texas Diplomatic Correspondence, vol. 1, pp. 55, 57.

⁴President Burnet's message, October 4, 1836.

⁵Acts of June 3, 1837, and May 24, 1838; Gammel, op. cit., vol. 1, pp. 1289, 1499.

⁶Barker, in *Pol. Sci. Quart.*, vol. 19, p. 634.

⁷Gammel, op. cit., vol. 1, p. 1033. This ordinance was entitled an "Ordinance and decree for the better accommodation of the claims against the government of Texas." When it was under discussion in the General Council an amendment was proposed by which "all persons should be obliged or bound" to take the notes. On the vote the Council was divided, but the president voted in the negative and there-

Convention was to respond to President Burnet's suggestion to authorize the executive to issue 8% treasury notes to "an amount adequate to the exigencies of the country."¹ There is no evidence, however, that there were any notes issued under either of these acts.

The total public debt on August 26, 1836, was estimated to be \$1,250,000. This amount was made up as follows: loans, \$100,000; army, \$412,000; navy, \$112,000; supplies, \$450,000; civil and contingent expenses, \$118,000; not itemized, \$60,000. It represents the small cost of independence which was handed down to the permanent government.²

¹Proceedings of the Convention; Gammel, op. cit., vol. 1, p. 903.

²Letter of Morfit, President Andrew Jackson's agent to Texas, to Secretary Forsyth, September 4, 1836, in House Executive Document, 24th Cong. No. 35. U. S. Doc. 635. Barker, in *Pol. Sci. Quart.*, vol. 19, p. 635.

by defeated the proposal that they should be a legal tender. Proceedings of the General Council; *ibid.*, p. 748. The loan commissioners, Austin, Archer, and Wharton, writing from Nashville, Tenn., to Governor Smith, on February 24, 1836, recommended the issue of treasury notes; *Texas Diplomatic Correspondence*, vol 1, pp. 71, 72.

PART II.

THE REPUBLIC, 1836-1846.¹

CHAPTER 1.

EXPENDITURES.

The convention which at Washington, on the Brazos, declared independence, also established a government *ad interim*, and, on March 17, 1836, adopted a constitution. The battle of San Jacinto was fought on April 21, and the hero of that decisive victory—General Sam Houston, was elected by the people the first constitutional president of the Republic of Texas. The First Congress convened on October 3, and Houston was inaugurated on the twenty-second. On February 16, 1846, Anson Jones, the last president, formally pronounced the Republic of Texas to be no more, and committed the government to the hands of the state authorities.

During the brief ten years of its existence, the republic had a place somewhere in the background of the family of nations. Patterned after the United States Government, it had a president, vice-president, a cabinet, a congress, and an army and navy. It received foreign representatives, and had its own abroad; levied and collected customs duties, direct and license taxes; possessed and administered an extensive public domain; issued without stint paper money, and incurred a public debt whose principal and accumulated interest at the date of settlement amounted to over \$12,000,000. The white population of Texas was probably not over thirty thousand in 1836 and about one hundred thousand in 1846.² It was not a timid population in any of its governmental undertakings.

¹This period has been most fully treated by W. M. Gouge in his *Fiscal History of Texas*, published in 1852. The statistics presented by him are the most complete obtainable, since many official documents and other original material to which he had access have been lost in the fires which have twice destroyed the State Capitol. Gouge was attracted too much by what would allow play to his satire, and the result is that his book is not a judicious account of his subject. See Yoakum, *History of Texas*, vol. 2, pp. 219, 249, 334.

²Barker, Potts and Ramsdell, *A School History of Texas*, p. 166.

The history of the republic is a chapter of difficulties and disappointments, and the ten years were rich in governmental experience. There were few financial expedients which were not resorted to. The key to its character and difficulties is to be found in its expenditures. These illustrate the functions of a frontier government, and explain the adoption of disastrous expedients.

Bordering on Mexico, who was an unsatisfied foe, and having within her confines Apaches, Cherokees, Comanches, and other warring Indian tribes to a number equal almost to one-third of the white settlers, Texas held defence to be of paramount importance. When the permanent government entered upon its duties, the army, which numbered about two thousand men, was suffering privation, and the navy consisted of only one large vessel.¹ The first matter, therefore, considered by the First Congress was the condition of these agencies of the national defence; and acts were immediately passed and appropriations made for their increase and maintenance.² In the winter of 1836-7, the army dwindled to about seven hundred men, and the president was compelled to bind himself personally in order to provide them with provisions.³ Volunteers from the United States soon restored the number to nearly two thousand, but in May, 1837, three-fourths of the soldiers were given furloughs because of lack of means to pay them, and because the president believed that a Mexican invasion was not to be expected.⁴ Mili-

¹Message of Burnet, October 4, 1836. See also Report of Committee on Naval Affairs; House Journal, 1st Tex. Cong., p. 97.

²Act of November 18, 1836, for the increase of the navy; Gammel, op. cit., vol. 1, p. 1090. Acts of December, 5, December 20, and December 22, relating to the military establishment; *ibid.*, pp. 1113, 1223, 1285. The general appropriation act carried \$700,000 for the army and \$150,000 for the navy; *ibid.*, p. 1145.

³Yoakum, op. cit., vol. 2, p. 207.

⁴President Houston in a message of June 6, 1837, said that since he had come into office only \$500 in cash had come into the treasury, all of which he had disbursed for provisions for the troops.

The soldiers were a turbulent body, and in the summer of 1836 refused to accept General Lamar who had been designated by the government as their commander. This act of insubordination was also a consideration in the granting of the furloughs; Garrison, *Texas*, p. 232.

tary expenditures were in this way kept down, but some had to be incurred to keep companies of rangers in the field to repress the frequent Indian depredations during 1836, 1837, and 1838.

As for the initial civil expenditures, the First Congress established a civil list which for length and compensation was far too imposing and expensive for a pioneer settlement of some thirty thousand Americans. It was provided that the president should receive an annual salary of \$10,000 and be provided with a furnished house;¹ the vice-president, attorney general, and the commissioner of the general land office, each \$3,000; the secretaries of state, treasury, war, and navy, each \$3,500; the post-master-general, \$2,000; the treasurer and auditor, each \$2,500; the chief justice, \$5,000, and associate and district judges, \$3,000; foreign ministers, \$5,000, and secretaries of legations, \$2,000. Members of congress received \$5 per diem, and consuls and clerks were paid on the same generous scale.²

The first general appropriation bill carried \$150,000 for civil purposes, but owing to the failure of the government's foreign agents to sell land scrip or to negotiate a loan, public officers went without their salaries during the first year.³

About November 1, 1837, the issue of treasury notes began, and thereafter there was no lack of such means to meet appropriations. The effect of the issues was to raise prices to such an extent that the high nominal salaries became by 1839 insufficient for the support of those who received them.⁴

President Houston's first administration extended from October, 1836, to December, 1838. The total expenditures from January 1, 1837, to September 30, 1838, the close of the fiscal year, were \$1,777,363. Civil expenditures for the nine months ending September 30, 1838, were \$380,921, and expenditures for the army and navy were \$430,570.⁵

¹The president's house in Houston was a log cabin of two rooms, one of which had a puncheon floor, the other had only Mother Earth. In 1839 the seat of government was removed to Austin, and the president's house there was more in keeping with his rank and salary.

²Act of December 29, 1836; Gammel, op. cit., vol. 1, p. 1129.

³Message of the President, June 6, 1837.

⁴Message of the President, November 12, 1839.

⁵This includes support of the war department, appropriations for Indians, and \$64,014 expended by executive order. Report of the Secretary of the Treasury, September 30, 1838.

Until the issue of treasury notes in the fall of 1837, appropriations were met by audited drafts and orders upon agents in the United States who had land scrip to sell. It was this poverty of the treasury during the larger part of Houston's administration that was mainly responsible for keeping down expenditures, and especially those of a military and naval character.¹

The administration of Mirabeau Lamar, Houston's successor, extended from December, 1838, to December, 1841. It was marked by a great increase in expenditures and by the practical bankruptcy of the republic. Appropriations for civil purposes leaped from \$192,000 under Houston's last congress to \$550,000 under Lamar's first. This was due to no increase in existing salaries, but to additional departmental clerks, to increased contingent expenses, to the requirements of the postal service and to the removal of the seat of government from Houston to Austin.

Appropriations for the army and navy increased from \$881,000 by the Second Congress, to \$1,523,455 by the Third, and to \$1,620,169 by the Fourth. The withdrawal in March, 1839, of the French blockade of Mexico left Mexico free, it was thought, to make an invasion; and though the continuance of the factional fighting in that country favored the security of Texas, the Lamar administration believed in strengthening the army.² In 1839 additions were made to the navy also, and though these were paid for in bonds, the manning and maintenance of the ships called for large expenditures out of current funds.³ Lamar's attitude toward the Indians was a hostile one: he favored their expulsion or extermination, and the campaigns in pursuance of this policy resulted in bloody retaliations by the Indians.⁴

¹The fact that civil expenditures were almost equal to the military and naval is explained by the large demands of the civil list, and by the weakness of the military and naval establishments.

²Message of November 12, 1839.

³Expenditures for naval purposes during the first nine months of 1839 were nearly \$60,000, and it was estimated that half a million would be required for 1840. Report of the Secretary of the Treasury, November 8, 1839.

⁴Message of November 12, 1839. Yoakum, *History of Texas*, vol. 2, p. 271, may be interpreted as defending Lamar's Indian policy. Houston's more pacific policy, however, appears to have been both more successful and less costly.

The highest point in the expenditures of the republic was reached in 1840, when the amount was nearly \$2,175,000. The means of payment had been provided by the act of December 29, 1838, which authorized the issue of treasury notes without limit. It is to be expected, therefore, that the year of largest expenditures should be also the year of the largest outstanding circulation of treasury notes.¹

A reaction in favor of retrenchment set in immediately. Public opinion, as voiced by the newspapers and the candidates for congress, ascribed the derangement of the finances to extravagance.² The congress elect, the Fifth, began the work of retrenchment by lowering salaries and abolishing or consolidating offices. The salary of the chief justice was decreased from \$5,000 to \$3,000.³ The office of secretary of the navy was abolished, and its duties were devolved upon the secretary of war; the office of postmaster-general was abolished, and its duties fell to the secretary of state. Various minor offices also in the treasury, and in the military and naval departments were cut off.⁴ The decrease in the number of dignitaries thus effected caused the civil list of the republic to suffer a reduced appearance, but it resulted in a saving of about \$100,000 per annum.⁵ The appropriations of the Fifth Congress for civil purposes amounted to about \$450,000, as compared with \$550,000 by the Third.

The chief reduction in expenditures, however, took place in the army and navy. No appropriation was made for the regular army, and the president was required to put out of commission the vessels of the navy. The appropriation for these branches of public defense amounted to only \$211,050, as com-

¹The estimated outstanding circulation, including treasury bonds, on September 30, 1840, was \$3,287,962.

²Telegraph and Texas Register, December 16, 1840. As early as January 19, 1839, this newspaper employs the fiction of a dialogue between a merchant and a farmer to advocate economy. The merchant advocates a national bank as the means of restoring the solvency of the republic, but the farmer contends that the legislators should awake from their "golden dream of folly," and study retrenchment.

³Act of December 5, 1840; Gammel, op. cit., vol. 2, p. 553.

⁴Act of January 18, 1841; *ibid.*, p. 569.

⁵Farewell address of the Speaker of the House; House Journal, 5th Tex. Cong., p. 723.

pared with \$1,581,369 appropriated by the Fourth Congress. The will of congress in regard to a reduction in military and naval expenditures was not carried out fully by President Lamar. He did not deem it practicable to retire the navy, and his arbitrary promotion of the visionary Sante Fe expedition increased military expenditures. Lamar had as early as 1839 suggested the expedition to congress, but that body refused its assent. • The president then had it undertaken without legislative approval. The expedition resulted disastrously, and while those who engaged in it paid a considerable part of the cost, it was a source of some expense to the treasury.¹

The three years of the Lamar administration saw an increase in treasury notes and in expenditures that was unparalleled in any former or succeeding administration. The debt was more than tripled and the paper promises of the government became worth only twelve cents on the dollar. The republic was a virtual bankrupt. To lead them out of the financial morass, the people turned again to General Sam Houston. Lamar's policies were reversed, and the retrenchment initiated by the Fifth Congress was carried much farther.

The Sixth Congress, or the first under Houston's second administration, has been called the "Reform Congress." The act of December 11, 1841, abolished officers, decreased the number of clerks employed in the several departments, and reduced salaries from that of the president down.²

¹Yoakum, op. cit., vol. 2, pp. 321-331, gives an account of this expedition. See also Garrison, *Texas*, pp. 244-6.

²The salaries, as fixed by this act, were as follows:

President, \$5,000.

Vice-president, \$1,000.

Secretary of state, \$1,500.

Secretary of treasury, \$1,500.

Secretary of war and navy, \$1,500.

Attorney general, \$1,000.

Commissioner of the general land office, \$1,200.

Treasurer, \$1,000.

Comptroller, \$1,000.

Chief justice and district judges, \$1,750.

Chief clerks, \$600.

Assistant clerks, \$500.

Members of Congress, \$3 per diem. Gammel, op. cit., vol. 2, p. 684.

The zeal of congress for retrenchment in the civil list exceeded, however, that of the president. In his message of December 20, 1841, Houston said that the time when retrenchment was necessary and important had gone by.¹ He meant by this, doubtless, that the military and naval policy of the Lamar administration should never have been entered upon. In his message of June 27, 1842, also, he complained that his suggestions as to the finances had not been enacted at the preceding session, and, as if to express his opinion of the retrenchment bill that had been passed, he added that salaries were insufficient and that the most efficient officers of the government were resigning.²

The reduction in salaries was, indeed, extraordinary, and, in view of the high prices prevailing and the opportunities for gain outside of government employment, Houston was justified in deprecating the action of congress.³ No further reduction was recommended either in or out of congress, but the discontinuance of what were regarded as useless officers, such as, for example, foreign ministers, chargé d'affaires, and secretaries of legation, was advocated.⁴

More important than the economies worked in the civil list were those in the army and navy. The policy of Lamar toward the Indians was, as has been stated, one of extermination; and in

¹Executive Record, No. 40.

²Executive Record, No. 40.

³The following is a statement of salaries paid at the seat of government before and after the act of December 11, 1841:

1840	\$174,200
1841	173,506
1842	32,800

Quoted by Yoakum, op. cit., vol. 2, p. 321, from a statement of the comptroller, December 16, 1842. The reduction here shown looks almost incredible, but the figures tally closely with those of the appropriation acts.

⁴The senate committee on finance believed in abolishing the foreign missions and offices of secretary of the treasury and secretary of war and navy. Senate Journal, 7th Tex. Cong., p. 30. The Telegraph and Texas Register of January 3, 1844, thought the work of economy was not completed and advocated dispensing with "useless foreign representatives." These recommendations were not carried out, however, and the act of December 11, 1841, remained the great measure of retrenchment of civil expenditures.

regard to Mexico, he was in constant expectation of the renewal of the war. Houston's policy toward the Indians was markedly different. He had lived among them and understood them, and they had a very high regard for him. Treaties were made with nearly all of the tribes, and a regime of amity was established which told greatly in favor of decreased Indian expenditures.¹

The failure of the Fifth Congress to make any appropriation for the regular army showed how little the legislators feared a renewal of hostilities with Mexico. But, as a matter of fact, in March and September of 1842 there were two invasions, and San Antonio, Refugio, and Goliad were occupied by the enemy. Following the invasion in March, congress, in June, declared for an offensive war, and a large body of Texans rushed to arms. The invading armies withdrew after a few days' occupation of the captured towns, and the failure of the republic's agents to effect a loan and the president's veto of a bill appropriating one million acres of land upon which land scrip should be based and sold, dispelled the war cloud. Mexico besides being weak on account of internal dissensions was also, like Texas, too poor to engage in a war.

The expenditures of a military character were, after 1841, only such as were necessary to keep a few companies of rangers in the field. Expenditures on account of the navy diminished to a nominal sum. A secret act was passed in January, 1843, to sell the vessels, and they were put out of commission at once.²

The economy of Houston's second administration resulted in total expenditures of only \$511,083 for the three years, 1842-44, as compared with \$4,855,215 for the preceding three years. At the beginning of his term President Houston found the financial condition of the government to be deplorable; at its close, he

¹The following statement of expenditures on account of the Indians was prepared by the comptroller in 1854:

1837-1838 (Houston)	\$ 190,000
1839-1841 (Lamar)	2,552,319
1842-1844 (Houston)	94,092
1845 (Jones)	45,000

Yoakum, *op. cit.*, vol. 2, p. 341 n.

²This secret act was repealed February 5, 1844, but expenditures were unaffected. Gammel, *op. cit.*, vol. 2, p. 1027.

noted that the finances were in a most "healthy and prosperous condition."¹

Viewing the entire period of the republic, the history of expenditures falls into two well defined divisions, one of which extends from 1836 to 1841, the other from 1841 to 1846. Total expenditures for the first period were \$7,128,873, or an annual average of \$1,879,978; the total for the second period was \$736,713, or an annual average of \$184,178.

The functions performed by the government were confined to the administrative and protective. Although in the beginning the general governmental framework was of most pretentious proportions, it was gradually modified by either abolition or consolidation of offices until it was so simple as to be almost inconsistent with the position of Texas as a national entity. Civil expenditures were quite exclusively for the congress, the president and his cabinet, and the judiciary. One will look in vain for appropriations for education, the care of the defectives, or internal improvements.² It was not because such objects of expenditures were unappreciated, but because there were more pressing needs. In the case of education, rich provision was made by appropriations of public lands, but the fruits of this endowment did not materialize during the life of the republic.

The greatest drain upon the treasury, and the chief cause of its difficulties, was the military and naval expenditures. The frontier position and condition of the state caused these expenditures. Mexico refused to recognize the independence of Texas, and an army and navy were deemed necessary to repel the expected attempt at resubjugation. Rangers also were in constant service on account of the attacks of marauding Mexicans and of hostile Indians upon the western settlements. It is true that conditions in Mexico were throughout the period such as to render fanciful the fear of an invading army strong enough to

¹See Anonymous (C. E. Lester), *The Life of Sam Houston*, p. 191, for a panegyric account of Houston's accomplishments in conducting the government. Also Crane's *Life and Select Literary Remains of Sam Houston*, p. 157-165.

²The erection of a penitentiary was provided for by the act of January 4, 1842; Gammel, op. cit., vol. 2, p. 695. On February 3, 1845, an appropriation of \$9,000 was made for the erection of lighthouses on Galveston Island and at Port Caballo; *ibid.*, p. 1135.

accomplish reconquest, but in the early years of the republic this was not understood by the Texans. A different and less costly policy toward the Indians also might have been adopted; but there was no change in either policy until 1841, and by that time the greatest harm had been done. The mistake of the republic in preparing for defense is not to be judged too harshly because both the Indians and the Mexicans seemed a great menace at that time.

CHAPTER 2.

RECEIPTS.

Morfit, the agent sent by President Jackson to Texas to report on its condition, wrote in September, 1836, that "the present resources of Texas are principally derived from the sympathies of their neighbors and friends in the United States, and by loans upon the credit of the State."¹ With the establishment of the permanent government in October, however, this partial dependence upon philanthropy was outgrown, and a system of taxation was adopted, which, with the sale of the public domain, was expected to provide an ample revenue.

The system adopted was one of direct and indirect taxation. Direct included the general property tax, the poll tax, and license taxes. Indirect consisted of customs duties and an excise tax.² Of these taxes, customs are first in importance.

A. *The Tariff.*

The first general tariff was that enacted December 20, 1836.³ It levied only ad valorem duties, which varied from 1% on bread-stuffs to 50% on silk goods. Sugar and coffee were charged 2½%; coarse clothing and shoes, such as were worn by slaves, 10%; iron, 10%; wines, and spirituous and malt liquors, 45%; all unenumerated goods, which included articles of most common use, 25%. The policy manifested in this act of light duties upon necessities and heavier ones upon luxuries was adhered to in all subsequent tariff measures. In June, 1837, there was a more detailed act, in which specific duties were largely substituted for ad valorem.⁴ Its general trend, however, was only slightly in the direction of higher duties. Cotton goods were charged 15%; boots and shoes, 25%, as compared with

¹House Executive Document, 24th Cong., 2d. Sess., No. 35. U. S. Doc. 635.

²Art. II, sec. 1 of the constitution of the republic provides: Congress shall have power to lay and collect taxes and imposts, excise and tonnage duties.

³Gammel, *op. cit.*, vol. 1, pp. 1207-8.

⁴Act of June 12, 1837; *ibid.*, pp. 1313-19.

10% under the former act. Breadstuffs, provisions, groceries, meats, malt liquors, coal, seeds, wearing apparel in use, tools of trade, firearms, and building materials were put on the free list. There were further additions to the free list in December, 1837, for the benefit of immigrants.¹ The act of February 5, 1840, returned to the original policy of ad valorem duties, and, except for wines and liquors, which were charged the same specific duties as formerly, a uniform ad valorem rate of 15% was levied.² The free list was narrowed to include only the household furniture, wearing apparel, wagons, necessary farming implements, and tools of trade, brought in by immigrants for their own use, and books. Provision also was made by this act for drawbacks on goods exported to noncontiguous countries, and for carrying out the commercial treaty with France. According to the terms of this treaty, which went into effect February 15, 1840, reciprocal treatment of the vessels and imports of each nation was accorded, and Texas agreed to admit French silks, imported direct in French or Texas ships, at one-half of the former tariff rates, and to reduce the duties on French wines by two-fifths and on brandies by one-fifth. President Lamar, seeking to influence the French government to guarantee the proposed Texan loan, issued a proclamation on February 11, 1840, abolishing the duties on French wines.³ Treaties of amity, commerce, and navigation were signed also with Great Britain and the Netherlands.⁴ As there were no Texas vessels engaged in the foreign trade, and as the direct commerce with these nations was insignificant, the treaties were largely so much paper, and customs receipts were not affected.⁵

¹Act of December 18, 1837; Gammel, *op. cit.*, vol. 1, p. 1422. Sugar, coffee, tea, salt, flour, all kinds of breadstuffs, iron, steel, household furniture, cotton bagging, bale rope, books, machinery of all kinds, wagons, and implements, brought in by immigrants for their own use, were free.

²*Ibid.*, vol. 2, pp. 209-225.

³For treaty and proclamation, see Gammel, *op. cit.*, vol. 2, p. 655.

⁴That with Great Britain was signed in September, 1842; that with the Netherlands in January, 1843; Gammel, *op. cit.*, vol. 2, pp. 880-5, 905-12.

⁵The commerce of Texas was overwhelmingly with the United States. The imports from August 1, 1844, to October 31, 1845, were \$1,204,370, and of this total \$1,151,733 came from the United States, \$9,466 from Great Britain and Ireland, and \$2,048 from France.

The act of 1840 represents the closest approach to free trade that was made at any time in the history of the republic. Owing to the depreciation of the currency in which duties were paid, the actual rate was nearer 3% than 15%, and in 1841, in order to adapt the government receipts to the depreciation, all specific rates were doubled and the uniform ad valorem rate of 15% was trebled, except for sugar, coffee, salt, iron, and steel, which remained unchanged.¹ In January, 1842, the number of articles subject to specific duties was increased, and the average rate imposed by the act was about 25%. Besides the necessary equipment brought in by immigrants, only Bibles, testaments, primary school books, and livestock were admitted free. An additional duty of 5% was imposed on all goods imported in foreign bottoms, except where otherwise provided by treaty or act of congress.² The improvement in the condition of the currency under Houston accompanied, and was in part responsible for, this change from the high nominal rates of 1841.

There were no further changes in the tariff during the remainder of the period. The Eighth Congress passed a bill that would have reduced duties to an average of about 17%, but it was vetoed by President Houston on the ground that the republic could not afford to reduce the revenue.³ Under the Ninth Congress, suggestions for reduction, reciprocity, and incidental protection were made, but except for admitting ice free of duty, no changes were made.

The average rate of the customs duties levied by the republic

¹Act of February 5, 1841; Gammel, *op. cit.*, vol. 2, p. 576. Message of President Lamar, November 1, 1840. Kennedy, *Texas*, vol. 2, p. 362.

²This discriminating duty aimed at the United States, with whom there was no commercial treaty. See Minority Report of the Senate Finance Committee, January 6, 1845, in Senate Journal, 9th Tex. Cong., p. 120. The receipts due to this 5 per cent augmentation were for the period August 1, 1844, to October 31, 1845, \$34,476 out of total duties paid of \$310,473. Report of the Secretary of the Treasury, February 15, 1846; Senate Journal, 1st Leg., appendix. For act of January 27, 1842, see Gammel, *op. cit.*, vol. 2, pp. 734-7.

³Veto message, February 5, 1844; Executive Record, No. 40. According to the Telegraph and Texas Register, February 14, 1844. little public notice was taken of the veto in view of contemplated annexation.

was not far from 25 per cent.¹ There was no great variation from this except under Lamar in 1840 and 1841. Throughout the period of the republic the object of the tariff was revenue; the only important suggestion of a different policy was that made by President Jones that the tariff should be primarily for revenue and incidentally for protection to agriculture and industries.²

The weight of the tariff lay upon the necessities of life, such as breadstuffs, meats, sugar, salt, assorted groceries, boots and shoes, dry goods and wearing apparel, household furniture, tools, and farming implements. Distilled spirits were the most important item outside of this list. They were taxed at high specific rates, and from the value of their importations it is to be inferred that they constituted one of the most productive items of the schedule.

Though the average rate of duty was comparatively low, opposition to the tariff was frequently expressed. It was not so much the principle that was objected to, as it was the unequal operation upon the different sections. The western and middle districts obtained their imported goods through Galveston and the other gulf ports of entry, where evasion was difficult. The eastern district, however, bordering as it did on the United States, obtained its supplies overland, and the long stretch of land boundary made smuggling easy. As the eastern was the most populous and wealthy section, the evasion by it of its share of the burden of the tariff was a subject of frequent and bitter complaint.³

¹For the three years ending September 30, 1838, the average rate was 19.3 per cent; for the year ending September 30, 1840, 17 per cent; for the year ending July 31, 1844, 26.6 per cent; for the period from August 1, 1844, to October 31, 1845, 25.7 per cent. The statistics necessary in order to obtain the average of other years are lacking.

²Inaugural address, December 9, 1844; Executive Record, No. 40. The Telegraph and Texas Register, December 18, 1844, expressed its unqualified disapproval of the president's suggestion.

³The Telegraph and Texas Register, November 14, 1838; June 9, 1841; October 5, 1842; September 6, 1843; January 3, 1844. Report of the Secretary of the Treasury, November 1, 1842. Report of the House Finance Committee, December 17, 1842; House Journal, 7th Tex. Cong., p. 74. Report of the special committee on a memorial presented by the citizens of Galveston and Houston, January 22, 1845; House Journal, 9th Tex. Cong., p. 272.

Another objection to the tariff was that it drove mercantile capital out of the eastern part of the republic, because farmers found it more profitable to take their products to Shreveport and other Louisiana points and exchange them for supplies than to trade with home merchants who charged prices which included tariff duties.¹ Other objections were that it deterred immigration,² and militated against the recognition by England of Texas independence.³

On the other hand, it was urged in favor of the continuance of the tariff that it was the most productive, certain, and least objectionable way of raising revenue,⁴ and that it was necessary in order to sustain the treasury notes.⁵ Repeal, it was also said, would be in favor of the commercial interests and to the detriment of the agricultural,⁶ and would lead to such an increase in importations as to drain the country of the "means requisite to its prosperity."

The administration of the customs was under the direction of the treasury department. There were collectors and deputy collectors appointed by the president, and inspectors and clerks

¹Report of Finance Committee, December 17, 1842; House Journal, 7th Tex. Cong., p. 74.

²Ibid., p. 75.

³Report of Special Senate Committee on the Tariff, 1839; in appendix to Senate Journal, 9th Tex. Cong.

⁴Report of Finance Committee, December 22, 1838; House Journal, 3rd Tex. Cong., p. 206. Report of Finance Committee, January 21, 1841; House Journal, 5th Tex. Cong., p. 406. Report of the Secretary of the Treasury, November 1, 1842. Veto message of President Houston, February 5, 1844. Message of President Jones, December 16, 1844.

⁵Report of Finance Committee, December 22, 1838; House Journal, 3rd. Tex. Cong., p. 209. It did not occur to this committee that if the amount raised by customs duties were raised by a direct tax, the demand for the notes would at least be the same.

⁶Report of the Finance Committee, December 22, 1838; House Journal, 3rd. Tex. Cong., p. 208. Houston, also, in his message of December 20, 1841, said that the principal reason he favored reliance upon import duties was that they were more just and equitable. Direct taxation bore, he thought, directly upon the farmer.

⁷Report of Finance Committee, January 21, 1841; House Journal, 5th Tex. Cong., appendix, p. 406. This argument was not developed by the committee, but as a suggestion it is fallacious.

appointed by the collector. Collectors were required to give bond, and their compensation varied in accordance with the importance of the port of entry. The act of June 12, 1837, allowed a commission of 2½ per cent until the sum amounted to \$2,000, after which the commission was one-half of 1 per cent.¹ The retrenchment policy under Houston led to a reduction in compensation, and a maximum salary, including fees, was fixed at \$1,200 for the port of Galveston, and at smaller sums for the other points of entry.² In order that the eastern district might be better administered the sheriffs of the counties that lay in that district were, in 1841, made collectors, and were allowed a commission of 10 per cent upon their collections.³

The practical absence of any checks upon collectors made abuses of trust possible. There are no complaints of connivance of officials with smuggling, but smuggling was practiced on a large scale.⁴

The cost of collection was greater under the commission than under the salary method of payment. For the three years ending September 30, 1838, the cost was 17.2%, and for the nine months ending October 31, 1842, 14.8%; while for the year ending July 31, 1844, it was 11.7%, and for the fifteen months ending October 31, 1845, only 11%.

The tariff was truly the foundation of the finances of the republic.⁵ Of the total receipts of the entire period, it contributed a little over 58%. From the beginning down to 1842

¹Section 7; Gammel, *op. cit.*, vol. 1, p. 1313.

²Section 4 of the act of January 27, 1842; *ibid.*, vol. 2, p. 736.

³Joint Resolution, February 6, 1841; *ibid.*, vol. 2, p. 623. The act of February 3, 1845, in order to elicit more vigilance on the part of the regular collectors in the eastern district, allowed half of the commission and fees arising, which was in addition to the maximum salary prescribed in the act of January 27, 1842; *ibid.*, vol. 2, p. 1134.

⁴Houston, in a message of June 27, 1842, said that the government lost at least one-half of the revenue to which it was entitled because of smuggling. In a message of December 4, 1844, he stated that there had been defalcations of \$60,000 by collectors.

⁵President Houston, in his address to the First Congress, May 5, 1837, said that the public domain was "the foundation of the finances." But this source, from which he expected so much, contributed only about 14 per cent of the total revenue.

it contributed 42.5%, while from 1842 to the close of the period its share was 83%. During the first period it was still a question as to whether direct or indirect taxation should prevail, but after 1841 there was a complete breakdown of direct taxation which was due in part to a popular preference for paying taxes indirectly.¹ As compared with other sources, customs receipts were also much the most uniform from year to year, and such fluctuations as occurred were due not so much to changes in rates as to the condition of the currency.

Up to 1843 treasury notes and 8% bonds were receivable at par in payment of duties. After 1843 only specie and exchequer bills, as the treasury notes issued during Houston's second administration were called, were receivable, and the latter were accepted only at the current rate of discount in the market. As duties were paid upon invoice cost, and as this was based on treasury notes, the depreciation of the notes was reflected in the value of importations. Down to 1842 the years of largest receipts were 1840 and 1841, and these were the years also of largest circulation and greatest depreciation of the notes. The annual average of receipts during 1842, 1843, and 1844 is less than that of any preceding year. The increase in population and the improvement in the general economic situation of the republic would be expected naturally to result in increased imports and duties paid, and the failure of the revenue statistics to show this is due to the improvement in the currency. The red-backs, or old issues of notes, were not receivable for duties after February 1, 1843, and the exchequer bills which succeeded the red-backs, while depreciated considerably at first, never fell as low as the old notes, and were, besides, received only at their current market quotation.²

¹Henry Smith, secretary of the treasury, said in a communication to the senate, November 29, 1838, that, as a general rule, direct taxation was odious, and that in the situation of Texas it could not be relied upon with certainty. See also Houston's message of December 20, 1841, and the *Telegraph and Texas Register*, November 30, 1842.

²After 1843 the customs began to show receipts in par funds. The report for the year ending July 31, 1844, showed \$73,299 in specie, and \$109,157 in exchequer bills which were worth in specie \$95,486. The report for the fifteen months ending October 30, 1845, gave specie receipts at \$202,121, and exchequer bills at \$140,997, which had a specie value of \$135,680.

B. Tonnage Dues and Port Fees.

The several acts to levy customs duties imposed also tonnage duties, and entrance, clearance and other port fees. These were reported by collectors along with customs receipts, and commissions, when they were the method of compensation, were allowed upon their amount. The bases for port charges were until 1840 such as were paid in the ports of the United States for the same service,¹ but the act of February 5, 1840, prescribed a schedule of new charges.²

By the act of December 20, 1836, a tonnage duty of 25 cents a ton was levied upon all vessels of the burden of 10 tons and upward from a foreign port.³ This was raised to \$1.00 by the act of June 12, 1837.⁴ In order to encourage steam navigation, steam packets were exempted from tonnage dues in 1837, but this was repealed in 1839.⁵ In 1841 it was provided that all vessels built in Texas and sailing under its flag should be free of tonnage duty,⁶ but the act of January 27, 1842, prescribed dues of 60 cents a ton for merchant vessels and 30 cents for steamboats,⁷ and in 1844 it was provided that vessels of those powers with which Texas had no treaty, should pay \$1.00.⁸ In 1845 Texas vessels and vessels of powers having a commercial treaty with Texas paid 62½ cents a ton, and the vessels of other countries \$1.00.⁹ Reciprocal treatment in regard to tonnage dues and port charges were provided for in the commercial treaties with France, Great Britain, and the Netherlands, but, as in the case of customs duties, the effect upon receipts was negligible, because the direct trade was insignificant.

¹Act of June 12, 1837, section 5; Gammel, op. cit., vol. 1, p. 1317.

²Entrance and clearance of ships of less than 100 tons, \$1.50; of more than 100 tons, \$2.50; every port entry, \$2.00; permits to land or load goods, 20 cents; bills of health and other documents, 20 cents. *Ibid.*, vol 2, p. 209.

³*Ibid.*, vol. 1, p. 1286.

⁴*Ibid.*, p. 1317.

⁵Act of December 18, 1837; *ibid.*, p. 1423. Act of January 10, 1839; *ibid.*, vol 2, p. 40.

⁶Act of January 4, 1841; *ibid.*, p. 480.

⁷*Ibid.*, p. 737.

⁸Act of February 5, 1844; *ibid.*, p. 107.

⁹Act of February 1, 1845; *ibid.*, p. 1109.

There are no statistics showing the receipts from these sources, except for the year 1844, when tonnage dues amounted to \$15,446, and fees of office and blanks, \$2,390; and for the fifteen months ending January 1, 1846, when the amount derived from all items of this character was \$25,433.¹

C. The Property Tax.

No direct taxes were levied by any of the revolutionary governmental bodies, because of the delay involved in their establishment and operation, the state of confusion existing in the country, and the inchoate condition of land titles.² Upon the establishment of the permanent government improved conditions made the adoption of a system of direct taxation practicable, and Kennedy, the Englishman, writing in 1841, felt justified in saying that Texas had "set the example of resorting to direct in preference to indirect taxation."³

The act of June 12, 1837, which was the first direct tax measure, provided simply that an ad valorem tax of $\frac{1}{2}$ of 1% should be levied on all "real, personal, or mixed" property.⁴ It was especially provided, however, that cattle and horses belonging to citizens of the United States should pay \$1 per head.⁵ The act of May 24, 1838, enumerated the property that should be subject to the direct tax, and the list included only land, slaves, horses over two in number, cattle over twenty-five in number, watches, clocks, and pleasure carriages.⁶ The rate remained at $\frac{1}{2}$ of 1%. In 1839 land certificates were singled out for specific

¹It is not possible to state separately how much was derived from tonnage dues and how much from other charges for the period ending January 1, 1846. The receipts from these sources for other years are not separated from customs receipts, and the latter are vitiated, therefore, to the amount of the former.

²Art. 20 of the "Plan and Powers of the Provisional Government" provides that the governor and council shall have the power to adopt a system to meet the exigencies of the country. Gammel, op. cit., vol. 1, p. 909.

³*History of Texas*, vol. 2, p. 363.

⁴Sec. 1; Gammel, op. cit., vol. 1, p. 1319.

⁵Sec. 7. This was repealed by the act of January 16, 1840, but was restored by the act of February 3, 1845.

⁶Sec. 8; Gammel, op. cit., vol. 1, p. 1514.

taxes, the amount varying with the quantity of land.¹ Up to 1840 the only specific taxes levied were those on live stock belonging to non-residents, and land certificates. In 1840, however, this method of taxation was very much extended. Only land, buildings in towns, and money loaned, became subject to ad valorem rates, while upon slaves, livestock, pleasure carriages, watches, and clocks there were levied specific taxes. Merchandise was reached by a tax on sales, and merchants were subject also to license taxes, as were hotel, restaurant, and boarding-house keepers, liquor dealers, and owners of billiard tables, nine-pin alleys, and games of such kind. The ad valorem rate was $\frac{1}{2}$ of 1% on land whose owners were citizens of the republic, and 1% on land whose owners were non-residents and on land held by an agent or attorney for another.²

For the remainder of the period of the republic, the practice of enumerating the property that was subject to taxation and imposing ad valorem rates on real property and specific rates on personal property was followed. The notable act of February 5, 1842, departed from the rule only in making pleasure carriages subject to an ad valorem instead of a specific rate. Besides imposing a tax of \$3 per year on each horse kept exclusively for racing, and reducing considerably all rates, this act also adopted

¹These certificates represented the right to the location of land. The specific taxes levied were: on a certificate for less than 640 acres, \$1; for 640 acres and less than 1280, \$2; for 1280 acres and less than one-third of a league, \$3; for one-third of a league and less than one league, \$4; for one league and labor, \$5. Act of January 26, 1839, sec. 8; *ibid.*, vol. 2, p. 141.

²Act of January 16, 1840; *ibid.*, pp. 183-202. The property subject to specific taxes was as follows: Each horse kept exclusively for riding, \$10; for riding or carriage, \$1; every stud or jack, the price of a stand; all other horses and mules, except four each for every farmer or laboring man, 25 cents a head; cattle over twenty-five in number, 10 cents a head; pleasure carriages, \$1 for each wheel; slaves under fifteen years of age, \$1 per head; slaves between fifteen and fifty years of age, \$3; slaves over fifty years, \$2; gold watches, \$3 each; silver watches, \$1; clocks with metal works, \$3; clocks with other than metal works, \$1; every pack of playing cards sold, given away, loaned or otherwise disposed of, \$3. The practice of discriminating against land held by an agent was begun by the act of January 26, 1839, which imposed a double tax on it; *ibid.*, p. 140.

a curiously variable ad valorem rate. In the acts of 1837 and 1840 the ad valorem rate was the same on all kinds of property, except where the land was held by non-residents or by agents or attorneys. The act of 1842, however, levied a rate of $\frac{1}{10}$ of 1% on land owned by residents, $\frac{1}{5}$ of 1% on that owned by non-residents, $\frac{1}{4}$ of 1% on town lots and improvements and money loaned at interest, and $\frac{1}{2}$ of 1% on pleasure carriages.¹

As is to be seen from the preceding account, considerable property was exempt from taxation. The act of 1837 included all property, but in that of 1838 only those things were subject which were enumerated, and improvements upon land, household and kitchen furniture, wearing apparel, and all that is understood as intangibles, were omitted from the enumeration. In the act of January 16, 1840, improvements upon land in towns were made taxable, but those upon agricultural lands, and other property not specifically set forth in the act, were expressly exempted.² From 1838 to 1845 livestock below a certain number were exempted, and in 1841 one saddle horse became tax free to each member of a volunteer company organized in certain frontier counties.³ It was the practice also from 1839 to exempt the property of colleges and universities either for five years or for an undefined period.⁴ It was not until 1845, however, that legal exemption of property held for religious purposes was made.⁵

Up to 1840 it was the rule to assess property, both real and

¹The specific rates levied by the act of February 5, 1842, were: horses and mules, except four for each farmer or laborer, 10 cents a head; cattle over twenty-five in number, 3 cents a head; slaves under ten years of age, 25 cents each; slaves between ten and sixty years of age, 75 cents; gold watches in use, \$1; silver watches in use, 50 cents; clocks with metal works, in use, 75 cents; clocks with wooden works, in use, 25 cents. Gammel, *op. cit.*, vol. 2, p. 778. The act of February 3, 1845, levied a tax of 1 cent a head on all cattle; but on cattle, horses, and mules owned by non-residents of the republic, except such as were owners through heirship, the tax was \$1 a head; *ibid.*, pp. 778-780.

²Sec. 38; *ibid.*, p. 200.

³*Ibid.*, p. 647.

⁴Each charter of incorporation provided for the exemption; *ibid.*, pp. 144, 427, 540, 612, 920, 950, 1133, 1149, 1177.

⁵Act of January 30, 1845; *ibid.*, p. 1100. The exemption extended to lands not exceeding ten acres, buildings, and furniture.

personal, at the place where the owner, agent, or administrator resided. A change was made by the act of January 16, 1840, which provided that a person holding taxable property in any other county than that in which he resided might send to the assessor of the county where the property was located a sworn list of such property.¹ There was a return to the old rule, however, in 1841.²

The mixed system of ad valorem and specific taxes obviated many of the difficulties of valuation. The law of June 12, 1837, required the person rendering property to give a complete inventory and "a fair valuation". If the assessor thought the valuation too low, he had to call in two citizens to value the property.³ In 1839 a decided change was made by devolving upon the chief justice of each county, assisted by two citizens, the valuation of the inventories of assessment.⁴ But in 1840 this innovation was given up and the plan of permitting both inventory and valuation by the person assessed was restored.⁵ It was stipulated in the act of 1840, however, that the minimum valuation of land should be \$1 per acre, that of unimproved lots in an incorporated town, \$50, in an unincorporated town, \$25.⁶

The work of assessment was done by an assessor appointed, until 1840, by the county court and thereafter by the commissioner of roads and revenue. In 1839 he was replaced by a "returning officer" in each precinct, who was appointed by the county court, and whose duty was simply to record the renditions made.⁷ This plan was discontinued in 1840. Until 1842 the assessor was appointed for one year, but after that for three years;⁸ and up to 1840 candidates for the position made sealed proposals to the chief justice of the county, and he was appointed who seemed "best calculated to perform the duties required and protect the

¹Section 6; *ibid.*, p. 185.

²Act of February 4, 1841, section 2; *ibid.*, p. 577.

³Section 3; Gammel, *op. cit.*, vol. 1, p. 1319.

⁴Act of January 26, 1839, section 3; *ibid.*, vol. 2, p. 141.

⁵Act of January 16, 1840; *ibid.*, p. 184.

⁶*Ibid.*, pp. 186, 190. The act of February 5, 1842, reduced the minimum valuation of land to 50 cents an acre; *ibid.*, p. 778.

⁷Act of January 26, 1839, section 1; *ibid.*, p. 140.

⁸Act of February 5, 1842, section 8; *ibid.*, p. 778.

public interest."¹ The method of compensation in the form of a graduated percentage of the assessment was adopted in 1840; up to that time, the compensation was that proposed in the bid for the position.² The assessor was thus a county officer whose assessment served as the basis for county and republic tax levies. He was under oath and bond to perform his duties faithfully. These duties were few, consisting, briefly, of giving notice in several public places of the time when he would be present at the mustering ground or captain's beat in each precinct to receive the inventories of property; of attending these places at the advertised time and receiving such lists; of administering oaths; of arranging for disinterested valuation where he deemed the value given by the owner to be too low; and of giving notice to delinquents and posting taxable lists. Until 1840 twenty days' notice, and after 1840, ten was required to be given. On the day specified in the notice persons were required to present themselves with a list or inventory of their taxable property. In 1840 only sickness or absence from the county excused one from not attending in person the place of assessment, and permitted instead a sworn list to be sent. Those not attending were subject to a penalty of \$10 as a compensation to the assessor for having to go to their residence. If the assessor did not find the individual at home, he left a written notice to the effect that if the list were not in by the date set for completing the assessment, he himself would make an assessment to the best of his information. A person assessed under these circumstances was liable not only to the penalty of \$10 but also to a double tax.

The time varied as to when assessments should be completed. The act of June 12, 1837, required that returns should be made by the assessors to the treasury department before the meeting of the next congress which was early in November. The time thus allowed for the appointment of assessors and the work of assessment for this year was very short. The act of 1839 provided that the returning officers should complete the inventories

¹Act of June 12, 1837, section 5; *ibid.*, vol. 1, p. 1321.

²The act of January 16, 1840, section 27, provided for 5 per cent on the first \$2,000 of taxes assessed, 3½ per cent on the next \$4,000, 2 per cent on the next \$6,000, and 1 per cent on the remainder; *ibid.*, vol. 2, p. 198.

and turn them over to the chief justice of the county on or before December 1. By the act of January 16, 1840, the roll had to be returned to the treasury department by the fourth Monday in July, or the assessor incurred a penalty of \$1,000. The act of 1842 fixed the date of completion of assessment at December 1, but after 1843, it was September 1.

The requirements as to the manner of compiling and recording the inventories were few and simple. The provision in the act of June 12, 1837, was that "the register shall show in proper columns the person's name, quantity of land in acres, number of negroes, horned cattle, horses and mules, and miscellaneous, including all other unclassified articles. Under each specific head shall appear the number and amount belonging to each individual, and one column showing the aggregate or gross amount, and another column showing the corresponding amount due from each."¹

The act of January 16, 1840, required of each person holding property for others, three inventories: one for the property he owned, a second for the property he held as guardian, executor, or administrator, and a third for that which he held as agent or attorney.² The fact that no separation of such property was required before 1840 shows the crudity of the early law. Throughout the period 1836-1860 the assessment rolls were made out in duplicate, one of which was sent to the treasury department, the other turned over to the collector.³

By the act of June 12, 1837, the oath taken by the taxpayer was in regard to the completeness of the inventory and the fairness of the valuation. In 1838 an oath had to be made by the taxpayer that there had been no removal of property in order to avoid taxation;⁴ but after 1839 the oath was only to the effect that the inventory was complete. False rendition was, by the act of 1837, an indictable offense, and entailed also a double tax,⁵ but in 1842 a forfeit of 5% a month on the amount not

¹Section 2; *ibid.*, vol. 1, p. 1320.

²Section 5; *ibid.*, vol. 2, p. 1321.

³Act of June 12, 1837, section 2. Act of January 16, 1840, section 8.

⁴Section 3; Gammel, *op. cit.*, vol. 1, p. 1319.

⁵Act of May 24, 1838, section 2; *ibid.*, p. 1513.

⁶Act of June 12, 1837, section 3.

rendered or undervalued was substituted for the double tax penalty.¹

The collection of the property tax was performed by the sheriff of the county. He was an elective officer, holding office for two years, and received in compensation for the work of collection a commission of 5%.² In the same manner as the assessor he gave notice as to when and where the payment of taxes would be received. Under the act of June 12, 1837, collection began October 1, and returns had to be made to the treasury department by January 1. The act of December 21, 1837, made September 1 the date of return to the treasury department, with the result that collection was made during the summer, or months when the farmer was least able to pay. It was not until 1842 that collection was provided for during the convenient months of the quarter beginning with December.³

The rule until 1840 was that taxes should be paid in the county where the owner or agent or administrator resided. In 1840 it was provided that payment should be made in the county where the property was located.⁴ Failure to pay taxes by the date set was followed by execution and sale by the sheriff of any property, real or personal, and until 1843 delinquent property was also subject to a double tax.⁵ According to the act of May 24, 1838, real estate could be redeemed by the original owner within twelve months from the date of sale by repaying the purchase price plus 50%. This was changed in 1839 so that redemption could be made within two years by paying the purchaser double the

¹Act of February 5, 1842, section 6; *ibid.*, vol. 2, p. 780.

²Act of December 20, 1837; *ibid.*, vol. 1, p. 1239. January 16, 1840; *ibid.*, vol. 2, p. 199.

³Act of February 5, 1842; *ibid.*, p. 778.

⁴Act of January 16, 1840; *ibid.*, p. 187.

⁵By the act of December 21, 1837, failure of payment was to be followed by execution against the property of the delinquent, issuable by any justice of the peace of the county, and sale by the sheriff of as much as was necessary to satisfy the taxes and costs; *ibid.*, vol. 1, p. 1455. By the act of January 26, 1839, thirty days notice of public sale was added; by the act of January 16, 1840, forty days notice in the case of lands and twenty days in the case of personal property. The act of February 5, 1842, provided that the assessor's list should have the force and effect of an execution, and sixty days notice of sale was required; *ibid.*, vol. 2, pp. 88, 781.

amount of the purchase price. The act of January 16, 1840, added 20% interest on double the purchase price and taxes. Finally, the act of February 5, 1842, provided that redemption might be made within one year by simply paying double the purchase price.

D. Business Taxes.

The taxation of business took the form of license and excise taxes, and taxes upon gross sales of merchandise. There were no taxes of this character until June, 1837, and from then until 1840, merchants were subject to an annual license charge of \$50 for each establishment; public inns and dealers in spirituous liquors, \$100; nine pin alleys and like places of amusement, \$150; owners of billiard tables for each table, \$200; and peddlers, \$50 in each county.¹ In 1840 there came an increase in rates, a change in the form of taxes, and additions to the list of occupations taxed.² Merchants became subject to an annual license charge of \$100, and wholesale merchants were further required to pay 25 cents, and retail merchants, 50 cents, on every \$100 worth of merchandise sold during the year. Where spirituous liquors were sold by retailers of merchandise, an additional license tax of \$100 was charged. The tax on billiard tables was raised to \$250, that on nine-pin alleys to \$200. The tax on public inns remained at \$100, while that on peddlers was reduced to \$25. The additions to the list were theaters which paid \$200; museums, wax works, and the like, \$50; public race tracks, \$100; boarding houses having five or more persons for pay, \$50; cook-shops and restaurants, \$50; real estate, ship and merchandise brokers, \$100, and money brokers \$100 and 3% on each \$100 loaned; auctioneers, who paid upon sales, an ad valorem rate which varied from 1% to 2%, according to the commission received and the kind of property sold.³ The act also imposed an

¹Act of June 12, 1837; *ibid.*, vol. 1, 1311.

²Act of January 16, 1840.

³On goods, wares, and merchandise, except such as were sold under decree of court, 2 per cent; on sales of real estate, 25 cents on each \$100 of sale, when rate of commission was 1¼ per cent; 50 cents, when rate of commission was 2½ per cent; 75 cents, when rate was 3¾ per cent; and \$1.00 when rate was 5 per cent. All goods, wares, and merchandise sold at private sale were charged at the same rates.

excise tax of 5 cents on every gallon of spirituous liquors distilled. The act of February 5, 1840, supplemented the preceding act by levying a license tax of \$250 upon retail dealers of spirituous liquors in quantities less than a quart, and a further charge of \$5 for clerk's fee.¹ In 1842 all business taxes were reduced, and reduction was carried farther in 1845, when the license tax upon retail merchants was lowered to \$25, and the taxes on gross sales were repealed.²

The license required of one who engaged in a taxed occupation was issued by the county clerk, who was authorized to charge a fee of \$1, or, in the case of a liquor license, \$5. Until 1843 he received also a commission of 5% upon the amount of licenses collected.³ In 1843, however, the system was changed so that payment was made to the county treasurer who in turn issued a receipt which entitled one to receive the license of the county clerk.⁴

The estimate of gross sales required by the act of January 16, 1840, was made to the assessor, and collection of the tax was by the sheriff. The penalty for failing to pay the tax or make the estimates of sales was, by the act of 1840, \$1,000, except in the case of peddlers, when the penalty was \$500, one-half of which went to the informer. For failure to pay the liquor license tax the penalty was \$1,000 and three months imprisonment.⁵ In 1843 the imprisonment feature disappeared, and the

¹Gammel, *op. cit.*, vol. 2, p. 272.

²The act of February 5, 1841, provided that no tax should be levied on any peddler whose goods were grown or manufactured within the republic; *ibid.*, p. 577. The taxes imposed by the act of February 5, 1842, were: wholesale merchants, billiard tables, and theaters, \$100 per annum; retail merchants, nine-pin alleys, public race tracks, auctioneers and money brokers, \$50; public inns, museums, and real estate, ship, and merchandise brokers, \$25; cook shops, and restaurants, \$15; public boarding houses, \$10. Retail merchants handling liquor were subject to an extra license tax of \$25 when sale was of a quart or over in quantity, and of \$100 when less than a quart. Auctioneers also were subject to a further tax of 5 per cent upon commissions; *ibid.*, pp. 778-782. The act of February 3, 1845, is found in Gammel, *op. cit.*, vol. 2, p. 1141.

³Act of December 21, 1837; Gammel, *op. cit.*, vol. 1, p. 1455.

⁴Act of January 16, 1843; *ibid.*, vol. 2, pp. 868-9.

⁵Act of February 5, 1840; *ibid.*, p. 272. There were no penalties prescribed for evasion of the tax levied on distilled liquors by the act of January 16, 1840.

money penalty prescribed was one-fourth of the annual license tax for each day that business was done without a license.¹ In 1845 the penalty for evasion of payment became simply double the amount of the tax.²

E. The Poll Tax.

A poll tax of \$1 was levied from 1837 to 1845, when it became 50 cents. By the act of June 12, 1837, it was levied on all males, not slaves, between the ages of twenty-one and fifty-five. The act of January 16, 1840, removed the upper age limit, but the act of February 4, 1841, made it forty-five years, that of February 3, 1845, fifty years. In 1841 in order to encourage the formation of a volunteer company in each of the frontier counties exemption from the tax was extended to the members.³ Payment of the poll tax was not a prerequisite to the exercise of the suffrage, nor were there prescribed any penalties for failure to pay.

F. The Characteristics and the Operation of the System of Property and Business Taxes.

The distinctive features in the taxation of property by the republic were the employment of specific duties, the fixing of a minimum valuation of land, and the discrimination against the property of non-residents and that held by agents or attorneys for others. Specific duties and minimum valuations were designed to do away with undervaluation, which is a characteristic weakness of the general property tax. Provided the objects subject to specific rates are of fairly uniform value and are found by the assessor, the method is perhaps the simplest way of taxing property. The property so taxed by the republic,—slaves, livestock, pleasure carriages, watches, clocks, and land certificates might be expected to have among a frontier population no very great inequalities of value within each class. Evasion of assessment was the common practice, however, and the method of applying inelastic specific rates made the inequalities

¹Ibid., p. 868.

²Act of February 3, 1845; *ibid.*, p. 1141.

³Act of February 4, 1841; *ibid.*, p. 647.

between individuals assessed and those not assessed more burdensome than would have been the case with an ad valorem system alone.¹

Personal property constituted the most valuable part of the property of the republic and contributed the largest share of direct taxation. After 1842 such personalty as was taxable was subject to specific rates, with the exception of pleasure carriages, money loaned, and merchandise. In 1844 the specific taxes assessed amounted to \$19,756, the ad valorem to \$22,736; in 1845 they were respectively \$21,525 and \$20,872.² When it is remembered that the ad valorem receipts included those from pleasure carriages, money loaned, and sales of merchandise, the larger contribution of personal property is evident.

The discrimination against the property of non-residents and that held by agents or attorneys finds its explanation in the hostility of a frontier people to absentee capitalists, and to the desire that land should be put to use and not held as a speculation. Suggestions were frequent that the tax rate should progress as the amount of land owned increased, the purpose being to make large landholders, both resident and non-resident, sell their holdings; but nothing like this was enacted.³

The features of the taxes on business are their undoubted heaviness upon all occupations and the selection of certain amusements for particularly burdensome charges. The act of

¹The system of specific rates existed in both Louisiana and Alabama, from which many of the early Texans came. The similarity between the Texas statutes of January 16, 1840, and the Alabama acts of January 10, 1835, and January 13, 1837, is very close in respect to the enumeration of property, occupations subject to license taxes, penalties, and details as to assessment and collection.

²There are no statistics for earlier years and none for receipts. Those quoted for 1844 are to be found in the *Telegraph and Texas Register*, January 8, 1844; those for 1845, in the Report of the Secretary of the Treasury, February 15, 1846. The polls assessed for 1844 were 8,247; those for 1845, 10,730.

³The Report of the Special Committee of the Senate on the Tariff, 1838, and the Report of the Secretary of the Treasury, September 30, 1841, favored a progressive rate. The house committee on finance, to whom had been referred a bill proposing this scheme, reported adversely on January 5, 1844, on the ground that it lacked "fairness and equity"; House Journal, 8th Tex. Cong., p. 156.

January 16, 1840, especially illustrates these characteristics. Billiards, nine-pins, horse-racing, card playing, the theater and wax works were to the early Texans undesirable amusements, and the taxes imposed expressed the disapprobation entertained.¹ The commercial or monied interests were also regarded as unproductive, and were the objects of some antipathy. The high license taxes imposed regardless of the size of the establishment, the taxes on sales, and the special burdens laid upon brokers and auctioneers give evidence of this feeling.² The system of business taxes, however, like the property tax, broke down, especially after 1841.

Presidential messages and treasury and finance committee reports throughout the period are full of complaints of the ill-working of the whole system of direct taxation. This was evidenced also by the wholesale fashion in which the laws were changed annually down to 1842. The difficulties experienced were due in part to the inadequacy of the laws and in part to the unwillingness, and often to the inability, of the people to bear the taxes levied. In the beginning much land to which there were claimants escaped because the government deemed it inadvisable to open the land offices.³ Land certificates were valuable as representative of land, but they were not taxed until 1839. They were, however, one of the most intangible forms of property the assessors had to deal with, and evasion

¹The Alabama Act of January 5, 1837, has the same features. It imposes, for example, a tax of \$2,000 on every billiard table, and the penalty for keeping a table without a license was \$4,000. Race horses, public race tracks, cards, and museums, were also singled out for taxes that were so high as to appear to have had a sumptuary purpose.

²The house committee on finance said in its report, December 22, 1838: "Repeal or remove the tariff, and you will place the great and sterling interests of the country in the hands and at the mercy of the commercial community." Houston, also, in his message of December 20, 1841, favored a diminution of direct taxation, because it bore immediately upon "the actual laborer and productive classes." House Journal, 3rd. Tex. Cong., p. 206.

The Alabama act of Jan. 5, 1837, suggests the Texas provisions in this respect. It levied a tax on sales of merchandise, and though land was taxed ten cents on the \$100, money loaned was taxed twenty-five cents.

³President Lamar's message, December 2, 1838.

was comparatively easy. The non-resident holding of land was on an enormous scale, and as the lands so held were required to be rendered where the owner or agent resided, non-rendition and undervaluation were comparatively easy.¹ The laws also required the rendition of lands by the owners, and a remedy for the evasion which this opened up was sought in the provision of the act of January 16, 1840, which required that the county surveyor should provide the assessor with a list of the recorded surveys in the county. This provision was repealed, however, in 1841 and the old method of self-assessment with the absence of system in reaching owners was restored. The fact that the population was widely scattered made the visits of the assessor and the collector difficult, and these officers usually waited in vain for the taxpayer to present himself for submission to a tax which no less a person than Henry Smith, secretary of the treasury under Houston, characterized as "odious."²

There were defects in the system of collection. The sheriff performed this task of collection of taxes in addition to his other duties. He was frequently derelict not only in making collections but also in making returns to the treasury of what he had collected.³ It was suggested that collectors should be appointed by the central government and subject to its rules, and therefore not amenable to local considerations, but though urged by both presidents Houston and Jones, the plan was not adopted.⁴

The frontier counties were in a state of almost continuous

¹The statistics for resident and non-resident holdings are not available for any year of the republic, but those for 1848 are near enough to the period to be representative. The distinction between resident and non-resident refers to ownership outside of the county, and not necessarily to ownership by one who is not a resident of the state. In 1848 the acres owned by residents were 17,807,643, valued at \$13,798,320; those owned by non-residents, 20,980,796, valued at \$10,813,835; Comptroller's Report, 1848-1849.

²Telegraph and Texas Register, January 2, 1839.

³President Houston's message, December 12, 1843.

⁴Report of the Secretary of the Treasury, November 1, 1842. Message of President Houston, December 12, 1843. Message of President Jones, December 16, 1844. Telegraph and Texas Register, December 6, 1843.

confusion owing to Indian and Mexican depredations, with resulting loss and insecurity of property, and it was often inability to pay due to these conditions that accounted for the failure to pay taxes.¹

The use of the principle of a minimum valuation of land was an incentive to evasion, for the minimum was undoubtedly too high. From 1840 to 1842 it was \$1.00 per acre, after 1842 it was fifty cents an acre. These taxes were more than the value of land taken on the average, considering the fact that land could be freely had by all immigrants.² There was also a great amount of land scrip on the market, which fact served further to depress the value of land. Much of the deeded land also was unoccupied and was producing nothing, and the taxes upon it were a decided burden. The consequence was that where such land was assessed, the taxes were not paid, and arrears to an enormous amount accumulated. The total direct taxes assessed for the four years 1837-1840 were \$639,219, and of this amount there remained unpaid in 1841 the sum of \$337,592.³ During the three years 1842-1844 there was a total direct tax assessed of \$168,257, of which amount there remained unpaid in 1846 the sum of \$78,614. Thus of the total taxes assessed, most of which was on land, over fifty per cent remained unpaid.

Of the total revenue of the republic, direct taxes contributed 20.1%, license taxes, 4.1%. Down to 1842 the proportion was somewhat higher, that of direct taxes being 24.7%, that of license taxes, 4.4%. The receipts from property and business

¹Finance Committee Report, January 21, 1841; House Journal 5th Tex. Cong., app., p. 405. Telegraph and Texas Register, November 30, 1842. The act of December 21, 1838, exempted the resident citizens of some six frontier counties from land taxation, and the act of January 22, 1845, exempted the citizens of three counties from the payment of all direct taxes due up to the passage of the bill; Gammel, op. cit., vol. 2, pp. 11, 1071. Gouge, *Fiscal History of Texas*, p. 142.

²Under the more secure and prosperous conditions of 1848 the assessed value of land averaged 63 cents an acre. This was perhaps less than its full value, by how much cannot be said, but it points to the conclusion that the minimum valuations, if not greater than the real value, were quite up to its limit.

³Statement in the Telegraph and Texas Register, August 18, 1841, based on returns on file in the office of the commissioner of revenue.

taxes for 1841 were the largest of any year, and this increase can be accounted for by the marked increase in rates made by the act of January 16, 1840. This increase in rates operated over the years also of largest expenditures and greatest issue of treasury notes, and was defended, as was the increase in customs duties at the same time, as necessary in order to adapt the receipts of the government to the condition of inflated prices. Under Houston's second administration there was a reaction against the high direct and business taxation as there was against the other policies of Lamar. Houston believed that direct taxes bore especially hard upon the farming class, and he recommended a repeal of the law authorizing the penalty of double taxes, the reduction of the direct tax by one-half, and the payment of all taxes in gold, silver or "paper of unquestionable character."¹ The reduction that was made by congress in the act of February 5, 1842, exceeded his recommendation, but payment was required in the kinds of money recommended. The years following these changes show a negligible revenue from direct and license taxes. It is doubtful if the reduction in rates made any change in the weight of the taxes, on account of the changed requirement as to tender. The result was an increasing amount of arrears, and the practical breaking down of the system.² Of the receipts from 1841 to 1846, direct taxes contributed 12.8%, as compared with 24.7% for the period before 1842, and license taxes, 3.7% as compared with 4.1%. Acts extending the time for the collection of taxes were passed in 1840 and the years following, but it is not apparent that they succeeded in inducing payments, and they remain as legislative evidence of the prostration of the system.

¹Message of December 20, 1841. The Telegraph and Texas Register of January 12, 1842, said that the adoption of the president's suggestion would increase the existing rates to nearly three times their "intrinsic value," and that "the people would be overwhelmed by the burden." See also Yoakum, *History of Texas*, vol. 2, p. 348.

²Messages of Houston, June 27, 1842, and December 12, 1843. Telegraph and Texas Register, November 30, 1842, and February 22, 1843. For the year 1843, of \$49,000 assessed only \$13,000 was collected; Yoakum, op. cit., vol. 2, p. 435. Of a total assessed in 1842 and 1843 of \$111,771, only \$58,196 was collected; Telegraph and Texas Register, January 8, 1845.

G. Land and Land Dues.

The estimated area of Texas at the beginning of the republic was 242,594,560 acres, and the most of this vast area was not only unoccupied but unclaimed. Land was the one thing in which Texas was rich, and the policy which was followed in the disposal of it is an interesting study, but only the outlines of the policy can be given here.¹

The policy of rewarding service in the army and navy which had been adopted by the provisional government was continued under the republic.² In order to put an end to the conflicts in preceding laws in defining bounties for service, the acts of December 4 and 14, 1837, provided that those who had served for three months should receive 320 acres; for six months, 640 acres; for nine months, 960 acres; for twelve months or more, 1280 acres.³ Warrants issued for bounty lands were called "bounty warrants." Additional grants were made to those who had participated in the conflicts of the Texas Revolution and to all who had become incapacitated for labor in the service of the republic.⁴ The warrants issued for these grants were called "donation warrants."

The policy begun during the Mexican period of granting land free to immigrants was also continued under the republic. The constitution of the republic contained the provision that every head of a family residing in Texas on the day of the declaration of Texas independence should be entitled to one league (4428 acres) and one *labor* (177 acres) of land, and that every single man of the age of seventeen and above should be entitled to one-third as much. All who came to Texas between March 2 and August 1, 1836, and volunteered for the army within that period were treated in a like manner.⁵ Certificates issued in accordance with these provisions were called "first class certificates." It was enacted in 1836 that those who had immigrated after the declaration of Texas independence and prior to October 1, 1837,

¹See Wooten, *A Comprehensive History of Texas*, vol. 1, pp. 748-848. J. and H. Sayles, *Laws of Texas relating to Real Estate*, vol. 1, passim.

²Gammel, *op. cit.*, vol. 1, pp. 1094, 1323, 1412.

³*Ibid.*, pp. 1368, 1404.

⁴*Ibid.*, p. 1435. *Ibid.*, p. 1450. *Laws of 1860*, p. 117.

⁵*Ibid.*, p. 1414.

should receive, if the head of the family, 1280 acres; if a single man, 640 acres; but it was required that the grantee be a resident of the republic for three years and that he pay land-office fees and expenses of survey.¹ Certificates issued in accordance with the terms of this act were called "second class." Free grants were discontinued by the act of June 12, 1837, to become effective October 1, but this policy was short lived, and the act of January 4, 1839, and January 4, 1841, provided that heads of families should receive 640 acres and single men above seventeen years of age, 320 acres.² Certificates issued to those immigrating between October 1, 1837, and January 1, 1840, were called "third class," and those to persons coming in between January 1, 1840, and January 1, 1842, were called "fourth class." The same conditions of residence in the republic and payment of fees attached to these certificates as attached to second class certificates. The act of January 4, 1841, required the immigrant to reside upon the land for three years, cultivating not less than ten acres, but this condition was repealed by the act of February 4, 1842.³ Though this method of giving away land was discontinued in 1841, another method was introduced.⁴ The old policy of making contracts for the colonization of families was reintroduced in 1841.⁵ Colonists received 640 or 320 acres, according as they were married or single; and the contractor, or the one responsible for the introduction of the colonists, received 6,400 acres for every one hundred families and 3,200 acres for every one hundred single men introduced. The law was repealed in 1844, but under it contracts had been made with several colonizers, and 4,494,806 acres were given to colonists and contractors.⁶

The homestead donation policy had its beginning in Texas with the act of December 21, 1838, which granted 160 acres of land to settlers along the military road from the Red River to the Rio

¹Ibid., p. 1283.

²Ibid., p. 1323. Ibid., vol. 2, pp. 35, 554.

³Ibid., vol. 2, p. 777.

⁴Ibid., vol. 1, p. 1324.

⁵Ibid., vol. 2, p. 555.

⁶Land Office Report, 1910-12, p. 24. Wooten, op. cit., vol. 1, p. 824. Gammel, op. cit., vol 2, p. 958. Sayles, op. cit., vol. 1, pp. 182-206.

Grande.¹ The conditions were settlement and two years cultivation. In 1841 grants were made for settlement along the northern military road, but with the condition of five years settlement.²

In addition to the above ways of disposing of the public domain, a liberal land endowment of public education was provided. By the acts of January 26, 1839, and February 5, 1840, four leagues (17,712 acres) were given to each county for the establishment of a primary school; and fifty leagues (221,400 acres) were set apart for the establishment and endowment of two universities.³

It was not a feature of the land policy of the republic, however, to make land grants in aid of internal improvements. The only subsidy in land which was given appears to have been to the surveyors and commissioners of the "Central National Road of the Republic of Texas," which was a turnpike projected to extend from the Trinity River near the mouth of Elm Fork to the Red River opposite the junction with the Riamisha.⁴ The road was never built, but the state parted with 27,000 acres for the purpose.⁵

Beneficiaries of the republic accepted land as headrights, bounties, donations, subsidies, and so forth, but the creditors of the republic were not so ready to accept land in discharge of their claims. The act of 1841 which permitted the creditors of the republic to exchange their claims for land scrip at the rate of \$2.00 an acre was repealed in 1845.⁶ The Triplett and Erwin loans were so discharged in 1837 and 1838, and in 1844 a debt of \$54,408 to Thomas McKinney and S. L. Williams was paid in land scrip.

The revenue derived from lands came from fees and from the sale of land scrip and town lots. The grantees under the laws of the Mexican period paid the fees prescribed by the laws of Coahuila and Texas. These were for those who immigrated

¹Gammel, *op. cit.*, vol. 2, p. 17.

²*Ibid.*, p. 536.

³*Ibid.*, pp. 134, 320.

⁴*Ibid.*, p. 1013.

⁵Land Office Report, 1908-10, p. 25.

⁶Gammel, *op. cit.*, vol. 2, pp. 624, 1210.

prior to May 2, 1835, \$3.50 for each *labor* (177 acres) of irri-gable land, \$2.50 for each *labor* of arable, and \$1.20 for each *labor* of pasture land; for those who came in between May 2, 1835, and March 2, 1836, the amounts of the dues were double.¹ The republic did not continue this system of charges for the grants made after March 2, 1836, but adopted a system of gov-ernment and patent fees. As prescribed by the act of December 22, 1836, the government fees varied from \$1.00 to \$3.00, ac-cording to the size of the survey plot, and the patent fees varied from \$5.00 for one league and *labor* to \$3.00 for one *labor*. The price of surveying was fixed at \$3.00 for every lineal mile.² In 1841 the patent fees were increased to \$15.00 for each patent for one league or more; for more than one-third of a league and less than one league, \$10.00; and for one-third of a league and less, \$5.00.³

In 1836 agencies were established in Mobile, Ala., and New Orleans for the sale of land scrip in denominations of 320 and 640 acres. The conduct of the agents and their lack of success excited the displeasure of President Houston and upon his rec-ommendation the further sale of scrip was prohibited.⁴ The amount of scrip sold by the agents was estimated at 1,220,387 acres.⁵ In the pre-emption act of 1845 the commissioner of the general land office was authorized to sell land scrip to any actual settler for \$2.00 an acre payable in the evidences of debt of the republic or for fifty cents an acre payable in par funds. The east end of Galveston Island was sold for \$50,000; and the rest of the island, the east end of Matagorda Island, and the townsite of Austin were sold in lots or small tracts.

The pre-emption policy was adopted in 1845, though before this the actual settler had had preference right of location of his

¹Gammel, *op. cit.*, vol 1, p. 1276; vol. 2, p. 1078.

²*Ibid.*, vol. 1, 1276.

³*Ibid.*, vol. 2, p. 467.

⁴Act of December 10, 1836; *ibid.*, vol. 1, p. 1133. Joint Resolution, December 10, 1836; *ibid.*, p. 1136. Act of December 14, 1837; *ibid.*, p. 1400. Message of President Houston, November 21, 1837. *Texas Diplo-matic Correspondence*, vol. 1, p. 196.

⁵Gouge, *Fiscal History of Texas*, p. 280. The scrip issued amounted to 1,329,200 acres; Land Office Report, 1908-10, p. 23.

certificate under certain conditions.¹ Under the law of January 22, 1845, a person who had settled upon and improved, or who should thereafter settle upon and improve any unappropriated part of the public land, had the right within three years from the beginning of his settlement to locate, if head of a family, any valid land certificate not to exceed 320 acres, if single, 160 acres, in preference to all other claimants. The pre-emptor was required to make oath that he believed he had settled upon vacant land. In lieu of any other valid land certificate, he could purchase at the land office a certificate.

The "boundless revenue" which President Houston thought would arise from the opening of the land offices did not materialize.² Of the total receipts of the republic, those from land and land dues, including town lots, constituted about 15%, and town lots account for about one-half of this.³ The large increase which took place in 1840 is due mainly to the sale of town lots on Matagorda Island and in Austin.⁴ During 1840 and 1841 also the depreciated treasury notes were receivable at par for all payments on account of land, and this fact, together with the increase in patent fees in 1841, helps to explain the large receipts of these two years. There are no statistics for receipts after 1841, and their absence is perhaps explained by the act of December 27, 1842, which granted an extension of time for the payment of land dues to January 1, 1846.⁵ The general land office was established by the act of December 22, 1836, but the opening of it was postponed from time to time, and it was not opened until the spring or summer of 1844.⁶

¹Gammel, op. cit., vol. 2, pp. 1073, 554.

²Message of November 21, 1837. The first general land office was at Houston from June, 1837, to September of October, 1839; Land Office Report, 1908-10, pp. 25-28.

³The proportion of the total given in the table is 14 per cent, but as some land dues are included among the direct tax receipts of the three years ending September 30, 1838, and among the miscellaneous receipts of 1839, the proportion is perhaps nearer 15 per cent than 14 per cent.

⁴According to Gouge, *Fiscal History of Texas*, p. 270, the amount derived from town lots in 1840 was \$168,797. He includes, however, some receipts from direct and license taxes, and these have been excluded from the amount given in table I, Appendix.

⁵Gammel, op. cit., vol. 2, p. 996.

⁶Sayles, op. cit., p. 450.

H. Miscellaneous and Unclassified Receipts.

Except for the year 1839, the receipts of a miscellaneous character were negligible. The receipts for this year were large because it was not found possible to classify the amount derived from taxes and land, and could these be allowed for, the really miscellaneous receipts would be small. Of the amount given for the three years ending September 30, 1838, \$3,195 is from sale of prizes captured by the navy. The chief source of miscellaneous receipts was probably fines and forfeitures. A postal service was maintained by the republic, but no revenue was reported from it. On the contrary, it was kept going with difficulty even with appropriations of other revenues.¹

I. Character of Receipts.

The bulk of the receipts from taxes and other sources was in the form of treasury notes and audited drafts. It was only at the end of the period that specie to any important amount was received.² Audited drafts, or unpaid warrants drawn on the treasury, were receivable for direct taxes down to 1842, and for land fees throughout the entire period. Auditors' certificates, representing the government's indebtedness to those who carried the mails, assessors' drafts, or warrants drawn in favor of assessors in payment for the work of assessment, and drafts

¹Houston in his message of December 4, 1844, said that the amount appropriated for sustaining the post office during his second administration was only \$29,000 while under Lamar it was \$252,917. See also Gammel, *op. cit.*, vol. 1, p. 1256.

²In 1842 only \$3 of specie was received, and a balance of \$17.44 carried over from 1841 was jealously retained in the treasury throughout 1842. Gouge (p. 274) says that previous to the adoption of the exchequer note system (1842) the records do not disclose that the government ever realized one dollar of its taxes in specie. Specie receipts from 1842 to February 19, 1846, were, according to Gouge, \$10,440. This is by no means the true, or even approximately true, amount, however, for the practice of the treasury after 1841 of designating as "par funds" paper received at par as well as specie makes it impossible to tell how much of either was actually received. Such par funds amounted, according to Gouge, to \$275,420 from 1842 to 1846, and some specie is included in another unclassified item of \$70,005; Gouge, *op. cit.*, p. 273.

issued by special acts of congress, were receivable for direct taxes after 1842.

Treasury notes, including both the "red-backs" issued before 1842 and the exchequer bills issued in 1842 and thereafter, made up the largest part of the receipts.¹ After 1843 the old issues of notes, or those before 1842, were not receivable for taxes, except in payment of arrears, and the new issues were receivable only at their current market rates.²

The other forms which receipts took were bonds and land scrip, but they constituted only a small part of the receipts.³ Bank notes were for a short time receivable, but it does not appear that any found their way into the treasury in payment of taxes or fees.⁴

J. Local Taxes.

Owing to the lack of statistics of any kind, nothing can be given in regard to county and other local taxes except the provisions in the laws. The act of December 20, 1836, provided that the county board of commissioners should levy a tax sufficient to meet the requirements of their respective counties, the tax to be levied upon the same persons and property, and assessed and collected by the same officers and in the same manner, as the state tax.⁵ By the act of January 16, 1840, the county tax could not exceed one-half of the state tax, and by the act of February 4, 1841, it could not exceed one-fourth.⁶ There were no limitations on other local taxes until 1841, when it was provided that they

¹Of the \$2,182,657 given by Gouge as the total receipts from 1835 to 1851, \$919,425 was definitely in treasury notes, and of the \$388,047 unclassified, there were certainly enough notes to make the total receipts in this form over \$1,000,000.

²Gammel, op. cit., vol. 2, pp. 727, 744.

³According to Gouge, \$50,100 of the funded debt and \$7,336 of land scrip were received; op. cit., p. 273.

⁴Gouge, op. cit., p. 274. The act of October 4, 1836, made the notes of any bank making loans to the republic receivable for all public dues; but the act of December 14, 1837, prohibited their receipt for customs duties, and this prohibition was renewed by the act of May 9, 1838. After 1841 they were not receivable in any payments to the government.

⁵Gammel, op. cit., vol. 1, p. 1206.

⁶Ibid., vol. 2, pp. 200, 577.

should not exceed the county tax.¹ From this restriction to one-fourth of the state taxes, the towns of Matagorda, Houston, Galveston, and San Antonio were excepted in 1844.²

¹Ibid., p. 578.

²Ibid., p. 942.

CHAPTER 3.

THE PUBLIC DEBT.¹

Upon the establishment of the permanent government in October, 1836, the public debt was estimated at \$1,250,000; in 1846, the estimated amount was nearly \$10,000,000; and the amount for which provision was made in 1852 and thereafter was nearly twelve million dollars. The explanation of this increase is to be found in the preceding accounts of expenditure and revenue. The fact that the largest part of the principal of the debt was in the form of audited drafts, treasury notes, and bonds representing the funding of floating liabilities, is evidence of the excess of expenditures over receipts. The funded debt would have been larger if the efforts of the republic to negotiate a foreign loan had been successful. The early Texans overestimated the credit of their government, and their disillusionment soon followed. The following is a descriptive account of the debt:

A. Ten Per Cent Bonds of the Five Million Dollar Loan Acts.

One of the first measures of the First Texas Congress was to authorize the president to negotiate a loan not to exceed five million dollars. The terms offered to lenders were 10% interest, and payment in not more than thirty nor less than five years. If any bank should become an original purchaser of the bonds, its notes would be receivable in payment of all public dues to the amount of the purchase. A purchaser had the privilege also of taking at any time the amount of his loan in land at the minimum government price. For the punctual payment of the interest and the final redemption of the loan, the public faith, the proceeds of the sales of public domain, and all taxes on land after 1838, were pledged.² Two commissioners were sent to the United

¹The public debt is the real theme of Gouge's *Fiscal History of Texas*, but his work is incomplete in that it does not extend beyond 1851.

²Act of November 18, 1836; Gammel, *op. cit.*, vol. 1, pp. 1092-3.

States to place the loan, but they met with no success.¹ In May, 1838, another act was passed modifying slightly the provisions of the first measure. It provided that the bonds should be written in such foreign languages as might be required and that the interest should be payable in such currency as might be stipulated. The public faith was the only security extended, but a supplementary act of January 22, 1839, pledged in addition as much of the revenues as might be necessary to meet the semi-annual interest. A sinking fund also was to be established, but in other respects the acts were alike.² In January, 1840, provision was made for a sinking fund which was to be constituted of the proceeds from the sale of the public lands, or, should the public lands not be brought on the market, from other revenue. The fund was to amount to \$300,000, although "nothing was to prevent the government from applying a larger sum." It was to be used in purchases of the bonds at their market price, and, in order that the remotest contingency might be guarded against, it was provided that "should the premium reach fifty per cent beyond par, the holders shall be required on application of said agents to surrender and cancel the same on the payment of par value and said premium."³

In the fall of 1839 the commissioners succeeded in placing a part of the bonds with the Pennsylvania Bank of the United States. The amount obtained, for which 10% sterling bonds were given, was \$457,380.⁴ With this advance as a testimonial that the republic enjoyed credit in the United States, one of the commissioners, General James Hamilton, went to Europe and visited the Hague, London, Paris, and Brussels. President Lamar reported in November 12, 1839, that the prospects of obtaining the full loan were "cheering and satisfactory," and

¹Messrs. Gilmer and Burnley were the first commissioners. In 1839 James Hamilton was appointed commissioner to succeed Gilmer. President Houston in his message of Nov. 21, 1837, ascribes the failure of the commissioners up to that time to the unfavorable condition of the money market in the United States. See also Texas Diplomatic Correspondence, vol. 1, pp. 111, 171, 196, 224, 225, 267.

²Gammel, op. cit., vol. 1, pp. 1484-7; vol. 2, pp. 62-3. Texas Diplomatic Correspondence, vol. 1, p. 267.

³Gammel, op. cit., vol. 2, pp. 230-233.

⁴Report of the Auditor and Comptroller, December 27, 1849.

the expectation of success undoubtedly led to its anticipation in an enlarged scale of expenditures. The loan was the one topic of exciting interest in the republic during 1840 and 1841, and what would be its disposition was a subject of much discussion. The plan of using the proceeds to establish a great national bank was perhaps the most popular.¹ Success was indeed very near in the summer of 1841, for the banking house of Lafitte and Company of Paris was on the point of opening its books to the flotation of the loan, when the French minister of finance came out in a semi-official note hostile to the proposition.² Until 1843 hope was entertained by the Texas loan commissioners that the French government would aid in floating the loan. It was believed that mere recognition by France and England of the independence of Texas would enable Texas to get all the money she desired.³ The duties on French wines imported into Texas were abolished by proclamation for three years to win the favor of France, and France could have secured for her guarantee of a loan the commercial privileges which Texas had granted to the United States.⁴ Hope of securing the guarantee of the French government to the loan was given up in 1843. An opinion adverse to the guarantee was declared to the French government by M. de Saligny, the representative in Texas of that government.⁵ M. de Saligny's motives in rendering an adverse opinion have been questioned on account of the difficulty over the assault of his servant by Mr. Bullock, an Austin hotel keeper, and also on account of the

¹Telegraph and Texas Register, January 16, 1841; Gouge, op. cit., pp. 96-8. Gouge (p. 140) explains the loan by the Pennsylvania Bank of the United States as intended to aid General Hamilton's efforts in Europe, the idea of the bank being that the proceeds would be used to establish a national bank in Texas which would act in co-operation with the Pennsylvania institution. Also Texas Diplomatic Correspondence, vol. 3, p. 1287.

²The terms of Lafitte and Company, the note of the French minister, and the communication of General Hamilton are published in the Telegraph and Texas Register, June 30, July 7, and July 28, 1841. See also extracts from French newspapers in Maillard, *The History of the Republic*, pp. 399-409.

³Texas Diplomatic Correspondence, vol. 1, p. 413.

⁴Texas Diplomatic Correspondence, vol. 3, pp. 878, 1283, 1285, 1287, 1336, 1405, 1406, 1433, 1410, 1422.

⁵Ibid., pp. 1427, 1431.

failure of M. de Saligny to secure extensive land grants for himself and associates.¹ The failure of Texas to place the loan anywhere would lead one to believe in the sincerity of M. de Saligny's opinion to his government.

The loan agents turned from France again to London, and Germany also was sounded, but all without avail.² The panic of 1837 was a most inopportune event for the Republic of Texas, for it is probable that if there had been no panic the bonds of the republic would have been taken up in Europe by the optimistic buyers of American stocks. But the panic caused a tight money market for a long period; and the repudiation by some states of the United States of their obligations and the failure of the states to meet on time the interest payments on their bonds brought American securities into great disrepute among European investors.

The inability of the commissioners to sell any bonds abroad, the little success which attended similar efforts in the United States, and the failure of the government to meet its existing obligations led to the repeal in January, 1842, of the laws authorizing the five million loan,³ and in January, 1844, to a repeal of all laws authorizing the president to negotiate a loan either upon the public faith or upon the basis of the public lands.⁴

The principal and interest of the loan from the Pennsylvania Bank of the United States were \$960,498 on July 1, 1850, at which date, according to the act of February 11, 1850, interest liability ceased.⁵ As this debt was secured by a pledge of import

¹The correspondence between Saligny and the Texas government is given in *Texas Diplomatic Correspondence*, vol. 3, p. 1289 et seq. Gouge, op. cit., p. 111.

²*Texas Diplomatic Correspondence*, vol. 3, pp. 1449, 1467, 1481.

³Gammel, op. cit., vol. 2, p. 703. In his message of December 20, 1841, President Houston said: "We are not only without money, but without credit, and for want of punctuality, without character."

⁴Gammel, op. cit., vol. 2, p. 954. In addition to the two five million loan acts, there were the act of December 10, 1836, authorizing the president to borrow \$20,000; the act of January 22, 1839, authorizing a loan of \$1,000,000, and the sinking fund act of January 14, 1840, which empowered the commissioners to issue bonds to the amount of seven million dollars, if necessary. See also *Texas Diplomatic Correspondence*, vol. 3, p. 1482.

⁵Report of the Comptroller, 1855.

duties, it fell within the provisions of the acts of Congress of September 9, 1850, and February 28, 1855. In its act of January 31, 1852, Texas provided that this debt should be settled out of the \$5,000,000 of United States bonds reserved in the United States Treasury on the basis of 87 45/100 cents on the dollar, this being the rating given it in the auditorial report of 1851. However, under the pro-rata arrangement proposed in the act of Congress of February 28, 1855, and accepted by Texas February 1, 1856, it was adjusted on the basis of 76 9/10 cents on the dollar.¹

Another debt of the republic which was represented by bonds issued under the five million loan acts was the so-called naval debt. In accordance with the act of November 4, 1837, a contract was made in November, 1838, with Frederick Dawson, of Baltimore, for vessels which were received in 1839. The original contract price was \$280,000, payable in one year, but double that amount if payment should not be made at maturity. Payment was not made at maturity, and the two 10% bonds of \$280,000 each put up as a forfeit with the Girard Bank of Philadelphia were turned over to Mr. Dawson.² In 1839, also, the Steamer "Zavalla" was purchased of James Holford and associates for \$97,953.50, on terms similar to the Dawson purchase; and failure to pay at maturity resulted in the forfeiture of 10% bonds to the amount of \$195,907. The principal of the naval debt with interest to July 1, 1850, amounted to \$1,622,404.70.³ Texas

¹Act of January 31, 1852; Gammel, op. cit., vol. 3, p. 916. Act of February 1, 1856; *ibid.*, vol. 4, p. 227. Act of Congress of September 9, 1850; U. S. Statutes at Large, IX, ch. 49, p. 446. Act of Congress of February 28, 1855; *ibid.*, X, ch. 129, p. 617. See also House Misc. Doc. No. 17, 33d U. S. Cong., 2nd Sess. Serial No. 807. A bill to make up the difference between what Texas acknowledged to be due and what was received was passed by the senate and house of the Sixth Legislature, but owing to a decision of the house that it required a two-thirds majority, the bill was lost. Governor Pease recommended in his message of November 2, 1857, the settlement of the difference (\$101,383.14), and a bill was introduced, but the senate committee on the public debt recommended its indefinite postponement; *Senate Journal*, 7th Leg., p. 139.

²Report of the Auditor and Comptroller, December 27, 1849, and November 12, 1851.

³Report of the Comptroller, 1855.

rated this debt at fifty cents on the dollar, but as the bonds were secured by a pledge of import duties they were paid out of the \$7,750,000 reserved in the United States Treasury on the basis of 76 9/10 cents on the dollar.¹

The above bank and naval debts were what may be designated the "foreign debt" of the republic. There was, besides, a large domestic debt, which was also largely held by non-residents at the time of settlement.

B. Audited Drafts and Audited Claims.

The domestic debt was incurred in meeting the ordinary expenditures of the government, although there may be some question about calling ordinary the expenditures on account of Indian and Mexican depredations. This debt was originally in the form of audited drafts and treasury notes, but afterwards bonds were issued to fund the floating liabilities and to meet appropriations.

All except \$100,000 of the \$1,250,000 debt handed down by the government *ad interim* was in the form of treasury orders or audited drafts, representing treasury obligations for supplies for the army and navy, for pay of officers and men, and for civil purposes.² Such of these as had been issued for cash advanced or for supplies furnished prior to March 1, 1836, bore interest at 8%. The amount of this description, however, was only \$59,468.43.³ This continued to be the main form which domestic indebtedness took until the issue of treasury notes began in November, 1837.

Including \$6,980.06 issued by the General Council in 1835 and 1836, the total issue of drafts up to December 31, 1837, was \$1,220,438.21. The amount redeemed during the period, either by receipt in payments of public dues or by drafts on agents in the United States, appears to have been only \$24,822. Their specie value in May, 1837, was about fifteen cents on the dollar.⁴ To meet this situation the act of June 7, 1837, was passed, au-

¹Report of the Auditor and Comptroller, December 27, 1849, and November 12, 1851. Acts of January 31, 1852, and February 1, 1856. See also House Misc. Document, No. 17; loc. cit.

²Morfit to Forsyth, September 4, 1836; loc. cit.

³Report of the Auditor and Comptroller, September 30, 1836; House Journal, 1st Tex. Cong., First Sess., p. 23.

⁴Gouge, op. cit., p. 267.

thorizing the consolidation and funding of the public liabilities. Claims against the government, after having been properly audited, were received at par in exchange for 10% bonds, and no interest was to be allowed on claims other than those funded.¹ The amount of audited drafts funded under the provision of this act was \$755,151.68.² The amount of drafts issued to the beginning of Lamar's administration was \$2,105,896.82; during his presidency of three years the amount issued was \$4,881,093.47, while during Houston's second term and Jones' administration the amount was only \$694,791.81.³ These figures best illustrate the policy of expenditures followed by the several administrations. The total amount issued from the beginning of the government to February 19, 1846, when the period of the republic ends, was \$7,681,782.10. In addition to the \$755,151.68 funded in the 10% bonds of the act of June 7, 1837, \$45,600 was funded in the 10% bonds authorized by the act of February 5, 1840. Of the balance, \$5,985,131.21 was paid at the treasury, almost wholly in promissory notes or treasury bonds: \$639,061.15 was received in the collection of revenue and destroyed, \$74,441.26 was filed with the auditor and comptroller, and \$182,396.80 was outstanding on September 1, 1851.⁴

Until June 12, 1837, audited drafts were received by the government in payment of all dues and taxes, but by the act of that date they were declared to be not a tender for taxes on retailers of liquor, billiard tables, nine-pin alleys, and like games; and by the act of December 14, 1837, they became no longer receivable for customs duties.⁵ By the act of January 16, 1840, they again became receivable for all direct and license taxes, but after February 1, 1843, they were not a tender for taxes, except in the case of arrears incurred before that date.⁶ There were in 1844, however, special acts of congress which provided for the issue

¹Gammel, *op. cit.*, vol. 1, pp. 1301-3.

²Reports of auditor and comptroller, December 27, 1849, and November 12, 1851. The amount given in the reports, and repeated by Gouge, is \$835,500, but it includes \$80,348.32 which does not represent properly audited drafts funded.

³Gouge, *op. cit.*, p. 267.

⁴Report of the Auditor and Comptroller, November 12, 1851.

⁵Gammel, *op. cit.*, vol. 1, pp. 1322, 1309.

⁶*Ibid.*, vol. 2, p. 727.

of a small amount of drafts that were receivable for direct taxes, and in some cases, for customs. Throughout the period of the republic audited drafts were receivable in payment of land dues, and the act of February 11, 1850, provided that audited paper could be exchanged for land certificates at the rate of fifty cents an acre.¹ If originally acceptable for that purpose, they were received by the state in payment of arrears of taxes due the republic, and small amounts continued to be received for land dues and taxes at the treasury as late as 1859.²

Audited drafts were warrants drawn by the auditor and comptroller of the republic upon its treasury, pursuant to the appropriation acts. There was, however, a large amount of claims which never reached during the period of the republic the stage of being audited, and the auditor and comptroller of the state were authorized to pass upon them by the act of March 20, 1848, which provided for the ascertainment of the debt of the republic. The legislature itself passed special acts from time to time acknowledging the legitimacy of certain claims. In passing upon these claims for services or supplies furnished, the practice was followed of assigning to each claim, as far as was possible, its par value at the time the service was rendered or the supplies were furnished.³ From 1852, when payment first began, to 1902, the date of the last payment, there was paid on account of this character of debt, \$1,576,214.29. Of this amount, however, \$288,263.16 was discharged by being received by the treasury in the collection of revenue.⁴

¹Ibid., vol. 3, p. 636. This act was intended to absorb the audited paper of the republic.

²Act of January 23, 1850; *ibid.*, p. 504. The comptrollers' reports do not separate in the receipts audited paper and treasury notes, so it is not possible to classify the respective amounts of each received. The total liabilities of the republic received from February 19, 1846, to 1860, after which time they cease to appear, amounted to \$289,110.86.

³Act of March 20, 1848, sec. 2; Gammel, *op. cit.*, vol. 3, p. 208. Report of the Auditor and Comptroller, December 27, 1849.

⁴The appropriation acts, except the act of January 31, 1852, do not separate principal and interest. The statement of the amount paid does not distinguish, therefore, the principal from the interest payments.

C. Treasury Notes.

The history of paper money has been enriched by the experience of the Republic of Texas. Excessive issue, depreciation to the point of worthlessness, old and new tenors, varying tender qualities, and, in fact, every phase, except that of a legal tender between individuals, was illustrated. The notes were of three different kinds: ten per cent interest notes, called "star money"; those not bearing interest, called "red-backs"; and exchequer bills.¹

The act of June 9, 1837, started Texas upon her tempestuous experience with paper money. It authorized and required the president to issue the promissory notes of the government to the amount of \$500,000, in denominations of not less than \$1 nor more than \$1,000, payable twelve months after date, and drawing interest at 10%. There were pledged for their redemption one-fourth of the proceeds of the sales of Galveston and Matagorda islands, 500,000 acres of land, all improved forfeited lands, and the faith and credit of the government. The notes were to be paid out only for the expenses of the civil departments of the government, except \$100,000 for the purchase of horses and munitions of war, and they were receivable in all payments to the government.² President Houston's explanation of this issue was that Texas had just come out of a war of independence and, to quote his own words, "the struggle had left us destitute and naked. There were no banks, there was no money; our lands could not be sold, and the public credit was of doubtful character. To avoid the absolute dissolution of the government, it became necessary to resort to some expedient that might furnish temporary relief. This could be only effected by creating a currency that should command some degree of credit abroad, . . . such articles in the market of the United States as were indispensable to the country."³

¹The interest notes were so called because of a five pointed star in the center of the face of the notes. The non-interest notes were called "red-backs" because of their red ground; Crane, *Life and Select Literary Remains of Sam Houston*, pp. 158, 162.

²Gammel, *op. cit.*, vol. 1, p. 1309.

³Message of May 12, 1838; House Journal, 2nd Tex. Cong., p. 119.

The notes were not immediately issued, because the secretary of the treasury, Henry Smith, thought the law authorizing them conflicted, first, with a previous law of June 7, 1837, which in providing for the funding of the public debt pledged the revenues from customs and direct taxation to meet the interest on the same, and, second, with the later tariff act of June 12, 1837, which provided that duties should be paid in specie or such current bank paper as the authorities might direct. As the success of the funding scheme would depend on payment of interest in specie, and as the customs were looked to for this specie, the secretary thought the provision making the notes receivable for all government dues would result simply in the substitution of one form of debt for another. He bowed, however, to the "dictation of the chief executive," and the notes appeared about November 1.¹

On December 14, 1837, there were authorized "change notes," or treasury notes of small denominations, to an amount not exceeding \$10,000, and an additional issue of \$150,000 of other treasury notes, if required.² Also the issue by individuals of printed or lithographed notes was prohibited, and customs duties were made payable only in specie or treasury notes.³

The amount of printed interest notes issued down to January 15, 1838, was \$514,510.⁴ They were not reissued, and they experienced little or no depreciation.⁵ They were succeeded by the "engraved interest notes," whose issues from January 15 to November 3, 1838, amounted to \$436,289, and from November 3, 1838, to January 1, 1839, to \$214,340.⁶ The amount

¹Statement of the secretary, November 16, 1837, in compliance with a resolution of the house; House Journal, 2nd Tex. Cong., p. 139. After the notes were issued the secretary instructed the collectors of the ports not to receive them, but he was compelled by the president a week later to make the order. The exact date of the appearance of the notes has not been ascertained, but the *Telegraph and Texas Register*, March 17, 1838, in its chronology of the events of the second year of independence, puts the issue under the date of November 1, 1837.

²Gammel, *op. cit.*, vol. 1, pp. 1387, 1393.

³*Ibid.*, pp. 1389, 1309.

⁴Gouge, *op. cit.*, p. 268.

⁵Report of the Auditor and Comptroller, December 27, 1849.

⁶Gouge, *op. cit.*, p. 268.

in circulation on September 30, 1838, was \$684,069.59, or \$34,069.59 above the amount which had been contemplated by the government;¹ and on November 3, 1838, the estimated amount in circulation was \$812,454.² A bill to increase the issue to \$1,000,000 was vetoed by President Houston on May 12, 1838, on the ground that such an amount would destroy the value of the notes and defeat their original purpose; but he signed on May 18, 1838, a bill that called for the "reissue and continued reissue" of the notes until an appropriation of \$450,000 should be met.³

Depreciation set in soon after the appearance of the engraved notes and by April, 1838, amounted to fifty per cent in New Orleans, while in Texas they were circulating at from 65 cents to 85 cents on the dollar.⁴ The current prices of commodities at this time were high, but they were scarcity prices rather than inflated ones.⁵

With the advent of the Lamar administration in December, 1838, a new chapter in the history of the notes began. The interest notes were succeeded by the "red-backs," or non-interest notes, authorized by the act of January 19, 1839.⁶ Further additions were authorized by the act of February 5,

¹Report of the Secretary of the Treasury, September 30, 1838. *Telegraph and Texas Register*, November 17, 1838. The secretary stated "that exigencies of the time demanded their deviation" from the amount the government regarded as expedient to be kept in circulation.

²Gouge, *op. cit.*, p. 269.

³Veto message; *House Journal*, 2nd Tex. Cong., p. 119; Gouge, *op. cit.*, pp. 79, 80. The president stated in the veto message that the outstanding amount up to that time had not exceeded \$500,000. Crane (*op. cit.*, p. 162) erroneously says that the act authorizing the increase was passed over the veto. For act of May 18, 1838, see Gammel, *op. cit.*, vol. 1, p. 1492. An act of November 16, 1838, required the issue of \$100,000 of notes already authorized to be expended for military purposes exclusively. *Ibid.*, vol. 2, p. 4.

⁴Compare (Lester), *The Life of Sam Houston*, p. 191. Gouge, *op. cit.*, p. 79.

⁵See list of prices, Appendix, table 6.

⁶Gammel, *op. cit.*, vol. 2, p. 51. The notes first issued under this act bore interest. The non-interest notes did not appear, it seems, until about February 27. See act of February 28, 1840; *ibid.*, p. 310.

1840, increasing the amount of "change notes" to \$150,000, and by the act of February 5, 1841, which placed no other limit on issues of red-backs than the amount of appropriations to be met.¹

Although the outstanding circulation at the close of Houston's administration was over \$800,000, he had stood for restriction of issue. Under Lamar, however, there was no restriction of amount. From January 1, 1839, there were \$1,569,010 of notes issued, and from September, 1839, to September, 1840, \$1,983,790, or a total, not including reissues, of \$3,552,800.² The estimated outstanding circulation was on September 30, 1839, \$2,013,762, and on September 30, 1841, \$2,920,860.75.³ The occasion of this enormous increase was the reckless policy of expenditures followed by the Third and Fourth congresses.⁴

The revenues of the government came to be paid entirely in the form of its paper liabilities, and the system of direct taxation broke down when the people had before them the example of the easy way in which the government provided itself with funds. The five million dollar loan was a delusion entertained throughout the years 1839, 1840, and 1841, and the feeling was that its negotiation would be the panacea for all the ills the republic suffered. Lamar, who was familiar with the general history of paper money, said in his message of December 21, 1838, that the first issues of Texas had answered a valuable purpose as a temporary expedient, "but experience admonishes us that to urge it further, or continue it longer, would be equally injudicious and prejudicial." He favored, therefore, as a permanent expedient, a national bank, because it would confer "many eminent and continued bless-

¹Ibid., pp. 364, 574.

²Gouge, op. cit., p. 268.

³Reports of the secretary of the treasury. 1839 and 1841. According to Gouge the outstanding circulation on September 30, 1840, was \$3,287,962.42, but he includes in this amount treasury bonds. The note circulation proper is not ascertainable, unless one deducts the total of treasury bonds issued during 1840 and 1841 from the figure given by Gouge. The amount thus obtained is \$2,438,062. Making allowance for bond issues made in 1841, it is safe to infer that the treasury notes outstanding amounted to over \$2,500,000.

⁴Anson Jones, *Republic of Texas*, p. 32.

ings," among which was "entire freedom from the odious and too often impertinent surveillance of the tax gatherers." The specie required for the establishment of this bank was to be derived from the expected loan. But the bank scheme was succeeded in Lamar's mind by the expedition to Santa Fe, and it was undertaken, he said, "because if the commerce and natural wealth of that section could be directed to the republic . . . it would do more to revive the drooping finances than any financial theory that might be devised for a quarter of a century to come."¹ With such visionary ideas as these engaging the mind of the executive, and with an extravagant congress, there is little wonder that the ship of the Republic of Texas went on the rocks.

The first issues of the red-backs were valued only at about 37.5 cents on the dollar; in November, 1840, they had fallen to 16.66 cents; and at the close of Lamar's administration in November, 1841, they varied from 12 to 15 cents.² The New Orleans quotations were for July 7, 1841, 11 to 13 cents; for September 22, 13 to 15 cents; for November 24, 12 to 13 cents; for December 15, 10 to 12 cents; and for January 5, 1842, 8 to 11 cents.³ After 1839 the notes ceased to circulate as a medium of exchange and became merely objects of speculation. The government did not recognize the depreciation until the fall

¹Message of November 3, 1841; Executive Record, No. 39.

²Report of the Auditor and Comptroller, December 27, 1849, gives the depreciation at the date of issue and for November, 1841. The depreciation in 1840 is given in House Journal, 5th Tex. Cong. First Sess., pp. 43, 127, and in the Telegraph and Texas Register, December 3, 1840. The Register of this issue stated that the continued contradictory statements about the French loan were believed to keep the notes fluctuating.

³Reported in Telegraph and Texas Register. The depreciation can not be followed in the prices of commodities in the Houston market, for after 1839 the quotations are specie prices. The market prices in 1839 were paper prices, and if we construct a simple arithmetical index number based on the prices of ten commodities quoted on September 1, 1838, the number for December 25, 1839, is 221, or an increase in prices of nearly two and one-fourth fold. See schedule of prices in Appendix. See also Texas Diplomatic Correspondence, vol. 1, p. 537; vol. 3, p. 1368.

of 1840, when it paid them out at the prevailing rates of discount.¹

An act of February 5, 1840, provided for the funding of the notes in bonds which bore 10% and 8% interest and which were redeemable after June 30, 1845. Notes presented before July 1, 1840, were fundable in 10% bonds; after July 1 in 8%.² This was a short lived measure, however, for it was repealed in 1841.³ It was next provided that the holders of notes or any other liquidated claim against the government might exchange the same for land scrip at the price of \$2.00 per acre.⁴ More stringent measures for sustaining the value of the currency were suggested, but it is to the credit of the Texans that they were not adopted.⁵ The notes could not be made a legal tender between individuals because of the provision in the constitution which provided that "nothing but gold and silver shall be made a lawful tender."⁶

The end of the interest notes and red-backs came in January, 1842, when they lost their legal tender power in payments of customs, direct and license taxes. They remained, however, a tender for land dues and for arrears of taxes previously assessed.⁷ They immediately sank in value, being current at from

¹House Journal, 5th Tex. Cong., p. 41. Report of Auditor and Comptroller, December 27, 1849. Congressional Globe, 33d U. S. Congress, 2nd Session, appendix, p. 159.

²Gammel, op. cit., vol. 2, pp. 453-4.

³Ibid., p. 639.

⁴Act of February 5, 1841; *ibid.*, p. 624.

⁵In the Third Congress a bill was introduced in the house providing for a stay of execution for twelve months unless treasury notes should be taken in payment. The committee to whom this bill was referred, reported on January 5, 1839, that it deemed the bill "not only unconstitutional, but highly impolitic and inexpedient." At this same session a bill also was reported adversely which sought to compel the officers of the government to receive the notes for all amounts due them, but an act was passed January 19, 1839, compelling them, the chief justice and district judges excepted, to receive the notes in payment of "all dues and appurtenances of their offices." Gammel, op. cit., vol. 2, p. 81.

⁶Art. II, sec. 2. See also *Rice v. Powell*, reported in Dallam, 413 (1841).

⁷Gammel, op. cit., vol. 2, p. 727.

ten cents to two cents on the dollar, and having no value at all in many parts of the state.¹

\$3,945,500 was the total amount of notes issued, not including reissues and exchanges of new notes for old, from November 1, 1837, to September, 1840, after which no new issues of the above kinds were made.² Of this amount \$770,080 was funded in the 10% bonds and \$22,800 in the 8% bonds authorized by the act of February 5, 1840.³ Up to September 1, 1851, \$518,324 had been received in the collection of revenue and destroyed. There was due by collectors and "likely to be paid over," \$129,750; filed with the auditor and comptroller \$2,201,193, leaving outstanding, \$296,353.⁴ As a result of the paper being filed with the auditor and comptroller and of its payment to the state for arrears of taxes and land dues owing the republic the amount outstanding was reduced to \$90,023 on October 31, 1853.⁵ Payments in them continued to be made to the state treasury as late as 1859, and those that were not so paid in were probably lost or destroyed.

In the adjustment of this portion of the public debt, the rating given to the first issue, or the 10% printed notes, was par. This was done because their issue ceased before any depreciation had taken place, and it was considered that the government had received full value for them.⁶ To the second issue, or the 10% engraved notes, a rating of fifty cents on the dollar was given, which was the average value estimated to have been received by the government, owing to their speedy depreciation after issue.⁷ The non-interest notes or red-backs were given a rating of twenty-five cents on the dollar. The principle fol-

¹Gouge, *op. cit.*, p. 117. Crane, *op. cit.*, p. 163. New Orleans quotations, as reported in the *Telegraph and Texas Register*, were on February 2, 1842, 5 to 8 cents, on May 9, 4 to 6 cents.

²The total given in the Auditor and Comptroller's report of December 27, 1849, is \$4,717,939, but this includes \$772,439 stated to have been redeemed at the treasury. As this reduction was effected by giving new notes for old, the net issue is as above given.

³Report of the Auditor and Comptroller, December 27, 1849.

⁴Report of the Auditor and Comptroller, November 12, 1851.

⁵Report of the Comptroller, 1852-3.

⁶Report of the Auditor and Comptroller, December 27, 1849.

⁷*Ibid.*

lowed in this rating was to ascertain what the notes were valued at when last paid out, but as this was impossible in the case of the engraved interest notes and the red-backs, what was done was to strike an average of the depreciation. For example, in the case of the red-backs, the value was $37\frac{1}{2}$ cents when issued and $12\frac{1}{2}$ cents at the end of 1841, the average being 25 cents.¹ These notes were a part of the revenue debt, however, and, therefore, came within the provisions of the acts of Congress of September 9, 1850, and February 28, 1855. Adjustment finally took place on the basis of 76 9-10 cents on the dollar under the provisions of the above act of February 28, 1855, and the assenting act of Texas of February 1, 1856. The par amount of each kind with interest to January 1, 1841, for which payment was made in 1856 was:

10% printed notes.....	\$ 65,208.33
10% engraved notes	451,708.32
Red-backs	2,199,728.64
<hr/>	
Total	\$2,716,645.29 ²

Scaled to 76 9-10 cents on the dollar this amount was \$2,089,-100.22.

The currency that succeeded the red-backs was a treasury note that went by the name of "exchequer bill." The act which repealed all the laws authorizing the issue and reissue of the old notes and their reception for taxes authorized the president to issue exchequer bills to an amount not exceeding \$200,000. They were in denominations of from \$5 to \$100, and were payable on demand.³ No pledge was given for their redemption, but it was made the duty of the collectors of the revenue to redeem them with any specie on hand. They were simply demand notes, and it was expected that their value would be sustained by the provision making them the only paper receivable for taxes, and by limiting the amount issued.⁴ The expected demand for

¹Ibid.

²Report of the Comptroller, 1855.

³Act of January 19, 1842; Gammel, op. cit., vol. 2, p. 727.

⁴Message of President Houston, December 20, 1841; Executive Record, No. 40.

the notes, however, did not materialize. Large importations of goods anticipated the requirement that duties should be paid in the notes or in specie, and the demands for the notes were further reduced by the reduction of the direct tax to a degree that hardly made it worth collecting, and the failure of merchants to pay their license taxes.¹ Other circumstances unfavorable to the demand for the notes were the unsettled condition of the country caused by the Mexican invasion; the general commercial depression; the competition of notes issued by banks in the United States, by individuals and by local governmental bodies in the state; and the payment of nearly \$50,000 of the notes for appropriations made before the notes were issued when it had been planned to use notes only for the future maintenance of the government.² Perhaps the most important factor influencing the value of the notes, however, was lack of faith in the government's ability to fulfill its promises. Confidence was entertained that Houston would rectify financial matters, but the experiences under the preceding administration were too fresh in mind to allay doubt entirely.³ Notwithstanding the fact that the amount issued had not exceeded \$150,000, the bills fell by July to as low as 30 cents on the dollar.⁴ The result was the act of July 23, 1842, which made the bills receivable in payment of taxes and postage at their current market value only.⁵ It was the tendency for the bills to seek the vicinity of the customs' houses, and their value varied at

¹Ibid., June 27, 1840; Executive Record, No. 40. Report of the Secretary of the Treasury, November 1, 1842; House Journal, 7th Tex. Cong., app., p. 53.

²Report of the Secretary of the Treasury, November 1, 1842. Senate Finance Committee Minority Report, January 6, 1845; Senate Journal, 9th Tex. Cong., p. 116. Texas Diplomatic Correspondence, vol. 3, p. 1407.

³Gouge, op. cit., p. 118. Crane, op. cit., p. 168.

⁴Telegraph and Texas Register of June 8, 1842, says they were passing in Houston and Galveston at from 40 to 50 cents on the dollar. See also message of Houston, June 27, 1842. Crane (p. 164) says, "speculators, like buzzards watching a sick animal, attacked the exchequers and entered into combination to destroy their value."

⁵Gammel, op. cit., vol. 2, p. 812. The Telegraph and Texas Register of July 27, 1842, says in regard to this act: "the public faith is becoming a mock word and public credit an empty bubble."

the different locations. This variation in value at the different points of entry was due in large part to the different amounts in circulation at each point.¹ But the president and the secretary of the treasury recommended that the revenue be collected only in specie, and the president suggested the prohibition of the circulation of all foreign bank notes, and the suppression of individual and local governmental issues.² The measures adopted were to make the bills receivable at par for direct and license taxes and postage,³ and to limit the amount in circulation at any one time to \$50,000.⁴ The limitation of issue which was made possible by the policy of rigid economy, the diffused demand for the bills for taxes and postage, and growing confidence in the government led to a rise in the value of the bills in 1843.⁵ The president renewed his recommendation to exclude

¹The Telegraph and Texas Register of July 13, 1842, reports that the bills were at par in the eastern district, and again reports them so on August 10, although they were valued at 30 cents in Houston and 50 cents in Galveston. Merchants took advantage of the variation by shipping to the port where the bills were received at par, and after paying duties there, reshipped to the point of destination. *Ibid.*, December 21, 1842.

²Message of December 1, 1842; Executive Record, No. 40. Report of the Secretary of the Treasury, November 1, 1842. The suggestion as to the payment of the taxes in specie was characterized by the Telegraph and Texas Register of November 23, 1842, as absurd. This newspaper went on to say that there was not enough specie in the republic to meet the ordinary wants of the citizens as a circulating medium, that all the necessities of life were purchased of merchants with cotton, hides and other products, and that even remittances made by merchants to their creditors abroad were made in these articles.

³Act of January 6, 1843; Gammel. op. cit., vol. 2, p. 866. Act regulating the postoffice department; *ibid.*, p. 864.

⁴Act of January 6, 1843; sec. 5; *ibid.*, p. 830.

⁵The Telegraph and Texas Register, February 8, 1843, reports that the collector at Galveston had rated the bills at 80 cents; that they were current in Houston at from 50 to 60 cents. On May 31, they were reported current in Houston at 45 cents, but were appreciating. On December 6, 1843, they were taken by the collector at Galveston at par and were current at from 90 to 95 cents, but later in December they had declined to 80 and 85 cents. The amount outstanding at the date of the message of December 12, 1843, was estimated by the president at \$13,000.

foreign bank notes and individual and other issues, and congress responded to the extent of repealing all laws granting to any individual or corporation the authority to issue notes. It was also provided that after March 1, 1844, the amount of exchequers outstanding should not exceed \$20,000.¹ But depreciation and fluctuation still continued, being influenced now by the prospects for the annexation of Texas to the United States.²

Houston was succeeded as president in December, 1844, by Anson Jones. The condition of the finances had so improved by this time that the attempt was made to put the republic on a specie basis.³ The act of February 3, 1845, repealed the law authorizing the issue of exchequer bills, and provided that as soon as the liabilities of the government were received in payment of taxes and other public dues, specie should be the only public tender, except in the case of land dues and patents.⁴ The action of repeal was a little premature, however, for in June, authority was given to issue exchequers to an amount not exceeding \$10,000 in order to defray the appropriations then made.⁵ From July, 1844, to August, 1845, the bills were received at Galveston at from 80 to 95 cents, but at par in the eastern districts; those received subsequently were at par. The average discount on the bills received from July 31, 1844, to September 1, 1845, was 3%.⁶ Less than \$10,000 of the exchequers were outstanding at the close of the republic, and they were all eventually received by the state in the collection of revenue due the republic.

¹Acts of February 5, 1844; Gammel, op. cit., vol. 2, pp. 1021, 1031.

²Telegraph and Texas Register, February 28, 1844. On February 12, 1844, following an issue of about \$25,000, the rate at Galveston was 70 cents; on March 6, 1844, 50 cents, although the bills were current in Houston at 60-75 cents, and at par in the eastern district; Report of the Secretary of the Treasury, 1844. The average discount on the bills received from customs during the year ending July 31, 1844, was 12½ per cent.

³Message of Jones, December 16, 1844. (Lester): *Life of Sam Houston*, p. 258, says in error that Houston left the presidency with the exchequer bills at par.

⁴Gammel, op. cit., vol. 2, p. 1140.

⁵Ibid., p. 1216.

⁶Report of the Secretary of the Treasury, February 15, 1846.

D. Eight Per Cent Treasury Bonds.

The act of February 5, 1840, authorized the secretary of the treasury to issue in denominations of \$100, \$500, and \$1,000, 8% coupon bonds, to an amount not exceeding \$1,500,000. Interest was to be payable semi-annually in gold or silver, and the revenue from the license tax and the tax on personal property was set apart for this purpose. The bonds were to be used in the payment of the appropriations for 1840, and were receivable for any debt to the government.¹

The appropriations of the Fourth Congress were the largest of any during the history of the republic, and this issue of bonds was a measure adopted by the Lamar administration to meet the appropriations. Treasury notes had depreciated to 16½ cents on the dollar, and it was thought the interest provision would result in a higher rating for the bonds, and in their supplanting the notes.² The provision that the interest should be paid in specie was nothing short of a farce, in view of what had been the specie receipts of the government, and it is incredible that either legislators or receivers of the bonds could have had any faith in it. No change, moreover, was made in the laws defining the tender for the taxes pledged. By the appropriation act of February 5, 1841, it was provided that no further issues of these bonds should be made after March 1, 1841, and the act of January 19, 1842, deprived them of their tender power in payment of debts to the government, except for land dues and patent fees.³

The amount issued was \$849,900.⁴ They were depreciated from the beginning, the discount being from 85% to 75%.⁵ There were received in the collection of revenue and destroyed, \$41,200, leaving \$808,700, with accumulated interest, to be paid.⁶

¹Gammel, op. cit., vol. 2, p. 241.

²Report of the Auditor and Comptroller, December 27, 1849.

³Gammel, op. cit., vol. 2, pp. 574, 727. An act of December 10, 1840, stopped the further issue of the bonds, but that of December 24, 1840, again authorized them for meeting the appropriations. Ibid., pp. 584, 473.

⁴Report of the Auditor and Comptroller, December 27, 1849.

⁵Ibid.

⁶Report of the Auditor and Comptroller, November 12, 1851.

The average par value which the government received from them was estimated by the auditor and comptroller in the report of December 27, 1849, at 20 cents on the dollar, and this was the rating adopted by the state legislature.¹ They came within the provisions of the acts of Congress of September 9, 1850, and February 28, 1855, however, and were therefore subject to pro-rata payment out of the \$7,750,000 reserved in the United States Treasury. Interest was allowed to July 1, 1850, and the original principal and interest to this date, \$1,417,680, was adjusted in 1856 at the rate of 76 9/10 cents on the dollar.² The scaled amount was \$1,090,195.92.

E. Ten Per Cent Bonds of June 7, 1837.

The rapidly increasing amount of government indebtedness in the form of audited drafts and the existence of many unaudited claims led to the passage of the act of June 7, 1837. It provided for the appointment of a stock commissioner who, with the comptroller, should investigate all claims against the treasury. Properly audited claims were exchangeable for the bonds authorized by this act. An issue of \$3,000,000 was provided for, of a denomination of \$100, bearing 10% interest, and redeemable at the pleasure of the government after September 1, 1842.³ Funding under this act continued until January 1, 1840.⁴ The amount issued in the funding of audited drafts and claims was \$771,000, and in the taking up of land scrip, \$66,400, making a total of \$837,500. During the period of the republic there was redeemed in land scrip \$1,500, and \$10,000 was received in the collection of revenue.⁵ The value that the government derived on the average from the liabilities funded was estimated by the auditor and comptroller at 70 cents on the dollar, and this was the rating adopted by the state.⁶ There were some cases in which this scaling was recognized as doing an injustice and these were recommended by the auditorial board to the legislature for relief. These bonds as a part of the revenue debt were finally adjusted on the basis of 76 9-10 cents

¹Act of January 31, 1852; *Laws of 1852*, p. 38.

²Report of the Comptroller, 1855.

³Gammel, *op. cit.*, vol. 1, p. 1301.

⁴Act of January 19, 1839; *ibid.*, vol. 2, p. 51.

⁵Report of the Auditor and Comptroller, December 27, 1849.

⁶*Ibid.* Act of January 31, 1862; *Laws of 1852*, p. 38.

on the dollar, and at the date of settlement in 1856, the original principal and interest to July 1, 1850, amounted to \$1,687,594.80.¹ Scaled to 76 9-10 cents on the dollar this sum was \$1,297,375.89. As this settlement did not do justice to those cases recommended in the auditorial report of 1849, an appropriation of \$60,000 was made by the state legislature to make up the difference between the scaled rate and par.²

F. Eight and Ten Per Cent Bonds of February 5, 1840.

To succeed the funding act of June 9, 1837, which expired January 1, 1840, and in order to relieve the currency of the plethora of treasury notes, the funding act of February 5, 1840, was passed. It provided for an issue of bonds in denominations of \$100, \$500, and \$1,000, to an amount necessary to fund the notes and audited liabilities of the government. The bonds bore 10% interest payable in specie, and were redeemable at the pleasure of the government after June 30, 1845. Treasury notes presented after July 1, 1840, however, were fundable only in bonds bearing 8% interest.³ The differences between these and the bonds authorized by the act of June 7, 1837, were that the latter had a special pledge of revenue for the payment of the interest but no stipulation in regard to the medium in which it should be paid, were receivable for dues owing to the government, were transferable only on the books of the stock commissioners, and were not employed in funding treasury notes; while the former had no special provision for the payment of interest, except that it should be paid in specie, were not receivable in the revenue, were transferable by simple endorsement, and were mainly employed in funding treasury notes.

The act of February 5, 1840, was repealed in 1841, owing no doubt to its failure to raise the value of the treasury notes.⁴ Its operation was resulting in the substitution of an interest for a non-interest liability, and with no apparent benefit to the credit of the government. Of the bonds bearing 10% interest there were issued \$813,800, \$1,400 of which were redeemed in land scrip during the period of the republic; of the 8% bonds

¹Report of the Comptroller, 1855.

²Act of February 2, 1856; Laws of 1856, Reg. Sess., p. 64.

³Gammel, op. cit., vol. 2, p. 453.

⁴Act of February 4, 1841; *ibid.*, p. 639.

there were issued only \$27,080.¹ The auditorial board confessed to the impossibility of ascertaining with anything approaching exactness the value received by the government from the liabilities funded, and arbitrarily rated the bonds at 30 cents on the dollar.² The original principal and interest to July 1, 1850, amounted to \$1,674,380.42.³ In accordance with the acts of Congress of September 9, 1850, and February 28, 1855, and the assenting act of Texas of February 1, 1856, payment was made on the basis of 76 9-10 cents on the dollar. Scaled at this rate the amount became \$1,287,788.54.

G. Miscellaneous Debts.

Under the ordinance and decree of December 5, 1835, authorizing a loan of \$1,000,000, there were two loans made of investors in New Orleans. The history of these loans has already been given,⁴ and it is sufficient only to note here that the Triplett loan of January 20, 1836, from which \$20,070 was derived was settled with 8% interest in land scrip at fifty cents an acre, according to the act of June 3, 1837, and that the Erwin loan of January 11, 1836, was settled on the same basis by the act of May 24, 1838.⁵ Advances by McKinney and Williams, of Texas, during the struggle for independence, to the amount of \$54,408.11 were also settled in land scrip at the rate of 50 cents an acre.⁶ These and such portions of its floating debt as were settled by the republic itself were thus paid in land scrip or in other evidences of debt, such as treasury notes or bonds.

H. Recapitulation.

The total amount of specie or specie equivalent received by the Republic of Texas from loans was \$457,380, and if to this

¹Report of the Auditor and Comptroller. November 12, 1851.

²Report of the Auditor and Comptroller, December 27, 1849. In 1841 the public talk of repudiating the debt, the president's recommendation in his message of December 20, 1841, that redemption be postponed, and the general critical financial condition of the government, caused the greatest depreciation of the notes and bonds. On January 26, 1842, the Telegraph and Texas Register quoted the 8 per cent bonds at from 6 to 7 cents, and on February 2 and May 9 at from 6 to 8 cents.

³Report of the Comptroller, 1855.

⁴*Ante*, p. 16.

⁵Gammel, *op. cit.*, vol. 1, pp. 1289, 1498.

⁶Act of February 5, 1844; *ibid.*, vol. 2, p. 1007.

are added the proceeds of loans made by the revolutionary governmental bodies the total receipts amount to \$524,370.¹

The revenue debt, or that which came under the provisions of the acts of the United States Congress of September 9, 1850, and February 28, 1855, amounted, original principal and interest to July 1, 1850, to \$10,078,703.21. The holders of this debt received the \$7,750,000 appropriated by the United States in 1855, which was payment on the basis of about seventy-six and nine-tenths cents on the dollar. The state, however, appropriated \$60,000 to compensate certain creditors for the difference between the sealed and the par ratings, which brought the basis of settlement of this revenue debt to something more than the 76 9-10 cents.² Of the \$7,750,000 appropriated by the United States for the payment of this debt, there remained an unexpended balance on January 1, 1861, of \$101,113.27. In 1881 a payment of \$45,000 out of this balance was made. The total payment made by the United States on account of the debt of the Republic of Texas amounted to \$7,693,886.73.

The face value of the audited claims and miscellaneous liabilities cannot be stated. The amount of such, excluding interest was, according to the report of the auditor and comptroller, November 12, 1851, \$1,008,267.37, but this was an underestimate. Payment of this class of debt devolved upon the state, and the total paid by the state down through 1902, the date of the last payment, amounted to \$1,287,951.13. To this amount of \$1,287,951.13 should be added \$288,263.16 which was the net amount of the liabilities of the republic received by the state in the collection of revenue due the republic.

SUMMARY:

Amount paid by the United States.....	\$7,693,886.73
Amount paid by the state.....	1,287,951.13
Amount received by the state in the collection of revenue	288,263.16
<hr/>	
Total paid on debt of republic.....	\$9,270,101.02

¹Gouge, *op. cit.*, p. 273.

²Laws of 1856, p. 64.

PART III.
THE STATE, 1846-1861.

CHAPTER 1.

INTRODUCTION.

In the general election held in September, 1836, to ratify the constitution of the republic and to elect the national officers, the voters of Texas declared themselves almost unanimously in favor of annexation to the United States. Owing mainly to the slavery question, however, the desire of Texas was not at this time reciprocated.¹ In 1843 overtures were again made and a treaty of annexation was signed, but was rejected by the United States Senate in April, 1844.² The expedient of a joint resolution was then adopted by the friends of Texas in Congress, and on March 1, 1845, the United States proposed annexation. President Jones of the republic called a convention, which on July 4, 1845, passed an ordinance accepting the proposal of the United States, and this ordinance and the constitution for the new state which had been framed by the convention were ratified by a popular vote on October 13, 1845.³ Annexation was consummated by the joint resolution of the United States, December 29, 1845; and on February 19, 1846, President Jones turned over the government of the republic to the officers of the new state. The first chapter of the state's financial history ended in 1861, when secession took place and a war was entered upon which prostrated the finances of the state and the general economic life of the state for many years to follow.

Texas shared with the rest of the United States the great prosperity and material development which characterized the years 1846 to 1857. About the time of annexation, population numbered roughly 135,000; in 1850 it had increased to 212,592. and in 1860 it was 604,215. In 1850 the per cent of the total population that was negro was 27.54; in 1860 it was 30.1. The white population of the state increased 173.24 per cent in the decade 1850-1860; the rate of increase of the slave population was 213.89 per cent; while the total population increased 184.2 per cent.⁴ Thus, while the population of the state grew pro-

¹Garrison, *Texas*, p. 255.

²*Ibid.*, p. 257.

³*Ibid.*, p. 260.

⁴*Eighth Census of the United States*. 1860. Vol. Population, p. 598.

digiously between 1850 and 1860, the large negro element minimized the value of the growth.

The population of the state was almost wholly rural. Galveston was the leading town in 1850 with a population of 4,177; San Antonio was next with 3,488; Houston was third with 2,396; New Braunfels was fourth with 1,298, and Marshall was fifth with 1,189. The total number of people in the twenty-three Texas towns listed in the United States Census of 1850 was only 20,209. Only five of the twenty-three towns had over one thousand inhabitants. Counting as urban the population of all the towns, the per cent of the population of the state that was urban was 9.5. The population was spread very thinly over the state, there being on the average in 1850 only eight-tenths of a person to the square mile. By 1860 the average density of population was 2.3 persons to the square mile. There was practically no increase in the urban proportion of the population between 1850 and 1860. In 1860 San Antonio was the leading city with 8,235 inhabitants; Galveston was next with 7,307; Houston was third with 4,845; and Austin was fourth with 3,494. The United States Census of 1860 lists forty-two cities and towns with a total population of 59,651. Their population was 9.8 per cent of the total population.

Population continued to follow rather closely the navigable waterways, but transportation was nevertheless largely by means of the ox wagon. Railroad building began before the middle of the fifties, but the towns affected by it were comparatively few and were on or near the coast. The number of miles of railroad in operation was 32 in 1854, 40 in 1855, 71 in 1856, 157 in 1857, 205.5 in 1858, 284.5 in 1859, and 306 in 1860.¹ The estimated cost of construction of the 306 miles was \$11,232,345.²

¹Eighth Census of the United States. 1860. Vol. Mortality and Miscellaneous Statistics, p. 333. See also, Potts, *Railroad Transportation in Texas*, p. 42. Compare Ringwalt, *Development of Transportation Systems in the United States*, p. 166, who gives the following mileage statistics for Texas:

	Railroad mileage	Steamboat mileage	Turnpike and other road mileage
1850 . .	—	80	7,618
1860 . .	78	2,185	16,193

²Eighth Census of the United States. 1860. Vol. Mortality and Miscellaneous Statistics, p. 328.

Agriculture was practically the sole occupation of the people, as was shown by the large per cent of the population that was rural. In 1850 the number of acres of improved land in farms was 643,976, and the number of acres of unimproved land in farms was 10,852,363. In 1860 the respective amounts were 2,650,781 and 22,693,247. Though agriculture was almost the sole occupation of the people of the state, the farm area was only 6.8 per cent of the total land area in 1850 and 15.1 per cent in 1860. The balance of the land area was unoccupied and uncultivated, but it was owned either by the state or by land speculators. The cash value of the farms in 1850 was \$16,550,008, and in 1860, \$88,101,320. The value of farming implements was \$2,151,704 in 1850, and \$6,259,452 in 1860. The value of livestock was \$10,412,927 in 1850, and \$42,825,447 in 1860. Cotton was the principal crop, and corn was the second crop in importance. There were 58,072 bales of cotton of 400 pounds each produced in 1849, and 431,463 bales in 1859.¹ The average price per pound for upland cotton was 12.3 cents in 1849, and 11 cents in 1859.²

Manufactures were either brought in from outside of the state or were made in the home, though there were some local manufacturing establishments. In 1850 there were 309 manufacturing establishments, including shops doing custom's work and repairing, with a total annual product valued at only \$1,168,538. In 1860 there were 983 establishments, whose annual product was valued at only \$6,577,202.³ The value of home manufactured products was \$266,984 in 1850, and \$584,217 in 1860.⁴

Though diversification of industry was yet to come and though most people depended on the ox wagon, population was increasing rapidly, agriculture was flourishing, and the state as a whole was prospering.

The finances of this period will be treated under the topics, Expenditures, School Funds. Receipts, and Public Debt.

¹Seventh Census of the United States. 1850. Pp. 515 and 1020. Eighth Census of the United States. 1860. Vol. Agriculture, p. 148.

²Bulletin of the United States Department of Commerce, Bureau of the Census, No. 131, p. 82. The average price for the period 1846-1860 was 11 cents per pound.

³Twelfth Census of the United States. 1900. Vol. 8, p. 862.

⁴Seventh Census of the United States. 1850. Pp. 515 and 1020. Eighth Census of the United States. 1860. Vol. Agriculture, p. 151.

CHAPTER 2.

EXPENDITURES.

The history of expenditures to 1861 may be divided into the two periods, 1846-1851 and 1852-1860. Down to 1852 the policy of economy followed during the last years of the republic was continued. Annexation relieved the state of the duties having to do with foreign intercourse, an army, a navy, and a post service, and until 1852 no new duties were undertaken, nor was the scale of performance of the old ones enlarged. The largest items of expense down to 1852 were the judiciary, the legislature, and the administration of the general land office. Together they made up about 60 per cent of the total expenditures. The judiciary had been scantily paid during the republic, but after 1845 salaries were increased. Frequent sessions of the legislature were called for in order to enact the statute laws for the newly organized state, but until 1850 there were only three sessions of about three months each. In 1850 the question arose as to the settlement of the northwest boundary dispute with the United States, and thereafter special sessions multiplied. Though they were of brief duration, the mileage expense was a large item. Legislative expenditures constituted about 12 per cent of the total expenditures of the period. The general land office was the most costly of the departments of general administration, and receipts from lands did not counter-balance the expenditures.

Until 1852 the state was dependent on taxation for revenue, but in 1851 there came a windfall in the form of the five million dollars of United States bonds which were a part of the payment by the United States for the cession of the northwest territory and for the relinquishment by Texas of certain claims against the United States. The first claim upon these bonds was regarded to be that part of the debt of the Republic of Texas which was not subject to payment out of the United States Treasury.¹ Payment of this debt was begun in 1852 and continued throughout the period. It constituted by far the largest item of expenditure, being about 23 per cent of the total.

¹Message of Governor Bell, January 13, 1853.

The use to which the remainder of the bonds should be put vexed the public mind and was a good test of the sanity of the early Texans. There was more than four million dollars available. Some advocated its use for internal improvements, others for education, while others believed it should be kept as a fund, the interest from which would be sufficient to meet the ordinary expenses of the state and thus relieve the people from taxation.¹ \$2,000,000 of the bonds was given to the general school fund, \$100,000 to the university fund, and the remainder was used to meet the current expenditures of the state. The taxes that would have been collected for the state purposes were relinquished from 1852 to 1858 to the counties and used by them to pay their debts, to build courthouses and jails, and to meet county expenses for other objects. This relinquishment did not benefit equally all the counties, but, in general, the end sought was attained, and as late as 1879 the bonded debt of Texas counties was only \$2,030,907.² But the use of the bonds in paying the ordinary expenses of the state government—which was necessitated by this relinquishment policy—was very poor financiering, and there is little doubt but that the benefit to the state would have been greater if the bonds had been used to endow further the school and university funds. On August 31, 1860, there was to the credit of the general revenue account only \$50,000 of the bonds, and these were a part of the \$100,000 borrowed from the university fund. Thus by 1861 not only had all the bonds not reserved for the two trust funds been expended, but those even in one of the trust funds had been borrowed. This occurred during a period when the population and wealth of the state were growing rapidly. Expenditures, while liberal, were not extravagant, and the explanation of the flight of the bonds lies rather in the revenue policy followed.³ After 1853 the salaries of those in the service of the state were

¹Message of Governor Bell, November 10, 1851.

²Tenth Census of the United States, vol. 7, p. 756.

³The Galveston News, January 24, 1854, comments on a tendency to extravagance in expenditures. Sam Houston in a letter of May 1, 1860, published in the State Gazette of July 21, 1860, criticizes the administration of 1858 and 1859 as not having managed the government economically.

increased, but \$3,000 for the governor and the supreme court judges, \$2,250 for district judges, \$1,800 to \$2,000 for heads of departments, and \$900 to \$1,200 for clerks were not unreasonable compensations.¹

An item of extraordinary expense which became important in 1852 and remained so thereafter was frontier defense. The Indians had been comparatively quiet up to that time, but as they were then being pushed farther and farther west, the outposts of the white settlements experienced their resentment. The state maintained mounted troops on the frontier at a heavy expense in order to protect the settlements. The expenditures for this purpose during the four years 1852-1855 amounted to about \$95,000, and the claim against the United States for this amount was relinquished in accordance with the act of Congress of February 28, 1855. From 1856 to 1861 over \$375,000 was expended for this purpose, and it was on this account that the \$100,000 of United States bonds belonging to the university fund was borrowed in 1860. The seriousness of this expense as a drain upon the treasury may be best understood by the fact that it constituted in 1860 more than 24 per cent of the expenditures. The Indians were the charges of the United States and that government was financially responsible for them, but Texas was not reimbursed for her expenditures for frontier defense until 1906.

The state penitentiary was the object of increased appropriations from 1852 to 1858. It was enlarged, and as an adjunct to it a factory for the manufacture of cotton and woolen goods was built and equipped in 1854. The policy of leasing the convicts in order to reduce their expense to the state was also considered, but was not adopted.² The net expense of the

¹The governor's salary had been fixed by the constitution at \$2,000 for ten years. The increase to \$3,000 was made by the act of December 20, 1855; Laws of 1855, p. 13. Act of February 11, 1854, raised salaries of the attorney general, comptroller, treasurer, and other heads; Laws of 1854, p. 77. The salaries of the judges of the supreme and district courts were increased in 1856; Laws of 1856, p. 69. The salaries of chief clerks of the departments were increased in 1858; Laws of 1858, p. 247.

²Message of Governor Pease, December 23, 1853. Report of the Committee on the Penitentiary; House Journal, 7th Leg., p. 345.

institution decreased after the factory got into operation, and during the Civil War the factory was a most important auxiliary of the government.¹

Until 1856 the state made no provision for the insane, the blind, or the deaf and dumb, but in that year buildings and maintenance were authorized for each of these, and each of the institutions was endowed with 100,000 acres of land.²

Expenditures for public buildings increased after 1852. A new capitol, governor's mansion, land office building and treasury building were erected. They were modest buildings, for the cost of constructing and furnishing all of them did not exceed \$270,000.

Expenditures of minor importance were for pensions and for what may be called industrial purposes. No general pension law was enacted, but cases of soldiers and seamen disabled in the Texas Revolution or in the service of the Republic of Texas were dealt with individually. Industrial expenditures were for the taking of the state census, and in 1858 for a geological and agricultural survey of the state. Public printing increased in cost after 1851, mainly because of the increased volume of printing.

Expenditures so far considered related to state duties of unquestioned legitimacy. The policy that should be followed in regard to internal improvements, however, was the subject of a vigorous controversy. During the republic four railroads were chartered, but the aid granted to them was only their right of way over the public domain, and not one was built.³ It was not unusual to find in state constitutions which were drawn up at about the time Texas adopted hers a provision that enjoined encouragement to internal improvements. A similar injunction was lacking in the Texas Constitution of 1845, and the only provisions relating to the subject were that no appropriation should

¹The expenditures for the penitentiary from 1848 to 1861 amounted to \$318,958. Report of the Comptroller, 1868-9, pp. 44-49. See also House Journal, 5th Leg., appendix.

²Laws of 1856, Adjourned Session, pp. 39, 58 and 61, and Laws of 1858, p. 251.

³Alexander Deussen, "The Beginnings of the Texas Railroad System," in Transactions of the Texas Academy of Science, vol. 9, p. 43.

be made for internal improvements without the concurrence of two-thirds of both houses of the legislature, and that the state should not be part owner of the stock or property belonging to any corporation.¹ During the first years of statehood railroad companies were chartered, but no construction took place, and the charters were forfeited. No subsidies were given, foreign capital was timid, domestic capital was both scarce and otherwise more profitably employed, population was sparse, the traffic in sight small, and distances to be covered were great. The failure of unaided private enterprise down to 1852 to provide means of transportation forced the question of state assistance to the forefront of public questions.

The method of state assistance first adopted was the donation in several special chartering acts of eight sections of land for each completed mile of road.² Previously, in 1850, statutory permission was given the cities and counties along the route of the proposed San Antonio Railroad to subscribe to its capital stock.³ The city of San Antonio and Bexar County each subscribed \$100,000, and these were the only municipal subsidies given in Texas before the Civil War.⁴

The imagination of the public was kindled by the receipt by the state of the \$5,000,000 of United States bonds; and in 1852 public meetings and conventions began to be held to discuss the subject of internal improvement.⁵ During the years from 1852 to 1856, which was a period of discussion, three plans for securing a system of improvements were presented. One was called the "State Plan", and was championed by Governor Pease. It comprehended a system of railroads, canals and river improvements. The railroads were to be built and owned by the state.

¹Art. 7, secs. 8 and 31.

²Special Laws of 1852, p. 97.

³Laws of 1850, p. 35.

⁴Texas Almanac, 1859. The special tax levied by Bexar County was reluctantly paid, particularly by non-residents of the county, and the state comptroller in 1856 or 1857, following an opinion of the attorney general, instructed the assessors and collectors no longer to insist on the payment of the tax. Report of Comptroller, 1856-7, p. 20.

⁵Message of Governor Bell, January 13, 1853; House Journal, 4th Leg., Second Sess., p. 20. The Texas State Gazette, July 12, 1856. The Galveston News, January 17, 1854, and May 29, 1855.

but leased for private operation. The funds for construction were to be raised through the sale of state bonds, and the interest on the bonds was to be met by a direct tax, until an amount sufficient to meet the interest should be realized from the sale of the public lands or from the profits on the constructed works.¹ The advocates of this plan thought that by it the state would secure during the next fifteen years internal improvements valued at from twenty-five to thirty million dollars. "No argument against the practicability of the plan here presented," said the governor, "can be drawn from the experience of other states, which have attempted a system of improvements, because none of them have attempted a system like this."

Another plan was called the "Iron Policy." It was so called because it proposed the investment of the school fund in railroad iron which was to be loaned to the roads.² Governor Pease regarded this plan as the alternative to the "State Plan."³ The third plan was called the "Loaning System," and was the plan to invest the school fund in the bonds of railroad companies.⁴ The "Loaning System" was approved by the convention called to consider internal improvements which met in Austin July 4, 1856, and in which twenty-six counties were represented.⁵

It was pointed out that the experience of other states with internal improvements had been "enormous expenditures on unprofitable works, State debts, repudiation, and finally ruinous taxation."⁶ This experience was heeded, and the "State Plan"

¹Message of Governor Pease, November 5, 1855; Senate Journal, 6th Leg., p. 8. House Journal, 6th Leg., pp. 401-412. The Texas State Gazette, February 24, 1855, and April 5, 1856. The Galveston News and the Galveston Journal supported the State Plan. The Marshall Republican and the Houston Telegraph prominently opposed. See Galveston News, January 1, 1856.

²House Journal, 6th Leg., pp. 412-19. The Texas State Gazette, April 5, 1856. The Galveston Weekly News, December 25, 1855, and January 1, 1856.

³Senate Journal, 6th Leg., p. 29.

⁴Majority Report of the Committee on Internal Improvements; House Journal, 6th Leg., pp. 401-12. Message of Governor Bell, November 12, 1851. Message of Governor Pease, December 23, 1853.

⁵The Texas State Gazette, July 12, 1856.

⁶House Journal, 6th Leg., pp. 401-12. The Galveston News, June 5, 1855.

and the "Iron Policy" were rejected. The policy adopted was, first, to donate to each railroad sixteen alternate sections of land for every mile of completed road, the land to be surveyed in sections of 640 acres at the expense of the road;¹ second, to loan for ten years at six per cent interest the United States bonds belonging to the school fund to railroad companies chartered by the state, at the rate of \$6,000 for each mile constructed, the loan to be secured by a first lien upon the property of a road;² third, to appropriate \$300,000 out of the state treasury for the improvement of the navigable rivers, bayous, lakes, and bays of the state, and for the construction of canals.³ The act carrying this appropriation imposed the important conditions that the maximum amount to be given to any one river project should be \$50,000, and that no aid should be given unless there was raised by private subscriptions a sum equal to one-fifth of the amount asked of the state. Some eighteen contracts were entered into, and by the end of the fiscal year 1863 the appropriation of \$300,000 was exhausted.⁴ It is difficult to believe that the amounts expended accomplished anything. Texas rivers apparently were no more permanently navigable before the Civil War than they are today, for it was proposed in 1856 that \$100,000 should be expended on digging a number of artesian wells at the heads of all Texas rivers in order that they might be supplied with water.⁵ Any improvement in the rivers which may have been effected

¹Laws of 1854, p. 11.

²Laws of 1856, Adj. Sess., p. 31.

³Laws of 1856, Adj. Sess., p. 9. For railroad mileage see *ante*, p. 84.

⁴At the end of the fiscal year 1859 there had been drawn \$217,227. In 1860 and 1861 \$90,449 was drawn, but this amount less refunds and the sum derived from sale of property left net amount drawn of \$87,555. In 1862 and 1863, \$2,529 was drawn. The total drawn was \$307,311. See comptroller's reports, 1856-7 and 1858-9; and the original Warrant Register, 1861-1871, in the vault of the comptroller's department. Texas Almanac, 1858, p. 191.

⁵House Journal, 6th Leg., p. 517. The Galveston News, June 5, 1855, thought the amount appropriated insufficient to secure permanent navigation. In the issue of December 4, 1855, the appropriation is defended as sufficient for securing permanent navigation for several hundred miles into the interior.

as a result of this state assistance was suffered to be lost during the years of the war and the Reconstruction.

Expenditures of a character different from the above were those for education and the public debt, and these will be treated in connection with the school funds and the public debt.

CHAPTER 3.

THE SCHOOL FUNDS.¹

No system of public schools arose during the period of the republic, but the liberal land grants to education made in 1839 were recognized and continued by the state. The Constitution of 1845 contained the following provisions in regard to education: "The legislature shall, as early as practicable, establish free schools throughout the state, and shall furnish means for their support by taxation on property; and it shall be the duty of the legislature to set apart not less than one-tenth of the annual revenue of the state derivable from taxation as a perpetual fund, which fund shall be appropriated to the support of free public schools; and no law shall ever be made diverting said fund to any other use; and until such time as the legislature shall provide for the establishment of such schools in the several districts of the state, the fund thus created shall remain as a charge against the state passed to the credit of the free common-school fund."²

"All public lands which have been heretofore granted or may hereafter be granted for public schools to the various counties, or other political divisions in this state, shall not be alienated in fee, nor disposed of otherwise than by lease for a term not exceeding twenty years in such manner as the legislature may direct."³

"No appropriation of money shall be made for a longer term than two years," except for purposes of education.⁴

The successive acts levying taxes carried out the constitutional injunction to set aside to the school fund one-tenth of the annual revenue of the state derived from taxation. Also the act of

¹For an excellent summary of school legislation see Lane's, "The Educational System of Texas," in Wooten, *A Comprehensive History of Texas*, vol. 2, pp. 424-431, 439-444.

²Art. 10, sec. 2.

³Art. 10, sec. 3. Sec. 4 provides that the counties which have not received their lands shall be entitled to receive the same quantity as other counties.

⁴Art. 7, sec. 8.

January 16, 1850, provided that counties organized since February 16, 1846, or which might thereafter be organized, should each receive four leagues of land.¹ The counties were slow in selecting their lands, and owing to the abundance of land little was derived from the system of lease to which they were restricted.² A better system of administration of these lands would have been to have made them a part of the school fund and so subject to administration by the state.³ In subsequent legislation relating to the disposition of the public lands the school fund was made the beneficiary. During the three years, 1858-60, \$100,960 was received by the fund from the sale of the public lands as authorized in 1858.⁴

The receipts from one-tenth of the taxes were small, and it would have taken an indefinite length of time for an amount to have accumulated, the income from which would have been worth while to apportion. Few counties had established schools up to 1855, and it was realized that with the existing provisions the establishment of a general system of education would long be delayed. The indemnity bonds received from the United States provided very opportunely the means for giving some needed assistance. By the act of January 31, 1854, \$2,000,000 of the bonds were set aside as a fund to be called a Special School Fund, the interest of which should be distributed for the support of the schools. In 1855 the first distribution was made.

The school fund was made to serve the double purpose of fostering education and promoting internal improvements. The original proposal for giving the \$2,000,000 of bonds to the fund was in a bill introduced at the called session of the Fourth Legislature to set aside that amount for investment in railroad bonds for the benefit of the school fund. This bill was defeated, but a similar bill was introduced in the Fifth Legislature which met in November, 1853.⁵ A majority of the committee on education

¹Laws of 1850, p. 37.

²As late as 1855 only 954,181 of the 1,753,488 acres to which the 99 counties were entitled had been selected; 38 counties had made no selection. See message of Governor Pease, November 5, 1855; Senate Journal, 6th Leg., p. 15; also message of December 23, 1853.

³Message of Governor Pease, November 5, 1855; Senate Journal, 6th Leg., p. 15.

⁴Laws of 1858, p. 193.

⁵House Journal, 5th Leg., p. 195.

to which it was referred recommended its indefinite postponement, with the result that the donation to the fund was made without any condition as to its investment.¹ The sentiment for internal improvement was too strong to be resisted, however, and in 1856 the "Loaning Act" was passed.² The governor, the comptroller and the attorney general were constituted an ex-officio board of school commissioners whose duty it was to loan, under the guise of investment, the 5% United States bonds in the fund to railroad companies incorporated by the state. Every loan was secured by six per cent first mortgage bonds of the road, and each company was required to pay two per cent each year into a sinking fund held in the state treasury. Loans were made to six companies, and the amount of their bonds purchased by the end of 1860 was \$1,476,000. Up to the outbreak of the war the conditions of the loans were fully met in regard to interest and sinking fund payments.

From 1855, when the first payment out of the school fund was made, until 1861, a total of \$560,015 was apportioned among the counties. This amount is the total of the money expenditures of Texas in behalf of education during the twenty-five years preceding the Civil War. The per capita apportionment was very small, being in 1857 only \$1.21 for each child of school age.³ After 1857 the amount for apportionment remained fairly uniform, but as the number of those within the school ages increased, the per capita apportionment decreased. Receipts to the fund were largely from the interest on the United States bonds held by the fund. Little was derived from taxation, as the state rate was low; and much less was received from land sales. The United States Census of 1850 reported 347 public schools with 358 teachers, 7,869 pupils, and an annual income of \$43,878. All of the income was reported as derived from sources other than taxes or public funds.⁴ By 1860 there were 1,218 public schools, with 1,274 teachers and 34,611 pupils. The annual income was

¹House Journal, 5th Leg., p. 205. Act of January 31, 1854; Laws of 1854, p. 17.

²Laws of 1856, Adj. Sess., pp. 31, 57. Laws of 1858, p. 57.

³Message of Governor Pease, November 2, 1857; House Journal, 7th Leg., p. 29.

⁴Seventh Census of the United States. 1850. Pp. 508 and 1020.

\$414,168, of which \$15,847 was reported as derived from taxes, \$58,394 from public funds, and \$339,927 from other sources.¹ There was practically no special taxation for school purposes before the Civil War, the United States Census of 1860 reporting only \$1,379 of school taxes.²

Private schools and private support of the public schools were much more important relatively in ante-bellum days in Texas than at present. Thus in 1850 there were 97 academies, with 137 teachers, 3,389 pupils, and an annual income of \$39,384. In 1860 the number of academies remained unchanged, but there were 236 teachers, 5,916 pupils, and an annual income of \$142,134. The need of public common school education was very great as was shown by the number of illiterates. In 1850 18.1 per cent of the white population twenty years of age and over was illiterate; in 1860 the per cent illiterate of those over twenty years of age was 10.1.³ All of the slaves were illiterate, but their illiteracy was not a problem until after the Civil War.

No public expenditures for higher education were made during this period, though endowments were made, and steps were taken toward the establishment of the University of Texas. In 1850 there was authorized a survey of three leagues granted under the act of 1839, because the field notes of former surveys had been lost.⁴ In 1856 the legislature provided for the survey of the fifty leagues granted to the University by the act of 1839. Alternate sections were sold in lots of 160 acres at public auction to the highest bidder at not less than \$3.00 per acre. The sale took place at the county seat of the county in which the land was situated. Purchasers were allowed twenty years in which to complete payment, and unpaid installments bore 8% interest.⁵

¹Eighth Census of the United States. 1860. Vol. Mortality and Miscellaneous Statistics, p. 505. This classification of receipts by the Census is incorrect, as the report of the state school fund for 1859 shows \$31,197.34 received from state taxes and \$117,480.90 distributed among the counties.

²Ibid., p. 511.

³Seventh Census of the United States. 1850. P. 513. Eighth Census of the United States. 1860. Vol. Mortality and Miscellaneous Statistics, p. 508.

⁴Laws of 1850, p. 96.

⁵Laws of 1856, Adj. Sess., pp. 71, 87.

The University Act of 1858 provided for the establishment of the University of Texas; appropriated to the fund \$100,000 of the indemnity bonds; confirmed the grant of fifty leagues made in 1839; and in addition gave to the University one section in every ten sections reserved for the use of the state under the act of 1854 which provided land grants in aid of railroad construction.¹ The bonds remained intact in the fund for two years, when they were diverted to the state revenue account. From interest and from sale of lands \$31,087 was derived by this fund down to 1861, and \$1,641.45 was expended. The University of Texas, however, was not founded until twenty-five years later. Such higher education as was provided in Texas was supplied by private institutions. There were two so-called colleges in 1850, with seven teachers, 165 students and an annual income of \$1,000.² In 1860 there were 25 institutions which bore the name of college with 107 teachers, 2,416 students, and an annual income of \$95,072.³

¹Laws of 1858, p. 148.

²Seventh Census of the United States. 1850. P. 508.

³Eighth Census. 1860. Vol. Mortality and Miscellaneous Statistics, p. 505.

CHAPTER 4.

RECEIPTS.

The provisions in the Constitution of 1845 relating to taxation were: (1) "Taxation shall be equal and uniform throughout the state. All property in this state shall be taxed in proportion to its value, to be ascertained as directed by law, except such property as two-thirds of both houses of the legislature may think proper to exempt from taxation. The legislature shall have the power to lay an income tax, and to tax all persons pursuing any occupation, trade, or profession: Provided that the term "occupation" shall not be construed to apply to pursuits either agricultural or mechanical."¹

(2) "The legislature shall have power to provide by law for exempting from taxation two hundred and fifty dollars' worth of household furniture or other property belonging to each family in this state."²

There was no provision in the constitution of the Republic of Texas enjoining equality and uniformity of taxation, and the result was a mixed system of discriminating ad valorem and specific rates. The state constitution on this point, however, was patterned after the Louisiana constitution which was adopted early in 1845.³ The exemption proposed by section twenty-eight is not found in any other state constitution at the time, and appears, therefore, to be a contribution to constitutional provisions relating to taxation.

The taxes levied during this first period of statehood were property, license, and poll taxes, and they will be considered in the order named.

A. The Property Tax.

A direct ad valorem tax was levied on all real and personal property except that exempted. The laws were content with the

¹Art. 7, sec. 27.

²Art. 7, sec. 28.

³Louisiana Constitution, title VI, art. 127. Journal of the Convention (Texas), p. 435.

general statement that all property should be taxed, and entered on no definitions or enumerations of real or personal property.

Certain property was exempt by law, and the first piece of tax legislation was to exempt two hundred and fifty dollars worth of the household furniture and other personal property belonging to each family in the state.¹ Later, property, including as much as sixty acres of land, devoted to educational or religious purposes, was exempted, as was also property, including as much as ten acres of land, owned and occupied by charitable or literary associations.² Products of the soil while in the hands of the producer were exempt from taxation after 1850.³

Until 1848 assessment took place between March 1 and July 1, and the property assessable was such as was owned or held on March 1.⁴ In 1848 the period between January 1 and June 1 was chosen, and assessment was of property owned or held on January 1.⁵ In 1850, however, a change was made from June 1 to May 1, and this arrangement lasted until 1861.⁶

In regard to the place of assessment, a singular amount of latitude was allowed and no distinction was made between real and personal property. Throughout the period the taxpayer was permitted to render for assessment in the county of residence, property lying in another county, although this was not expressly incorporated in the laws until 1850.⁷ In 1860 the broad permission was given to persons outside the state who owned land in the state, to render their land for assessment to the assessor of any county.⁸ While this was the rule of assessment, the taxes accrued to the benefit of the place of location of the property.

Taxable property was rendered for taxation by its owner or by those who held it in a representative capacity. Unrendered

¹Laws of 1846, p. 76.

²Laws of 1849, p. 9. Laws of 1850, p. 80.

³Laws of 1850, p. 211. Laws of 1860, p. 88. See Report of the Finance Committee; House Journal, 3rd Leg., Reg. Sess., p. 562.

⁴Laws of 1846, p. 349.

⁵Laws of 1848, p. 197.

⁶Laws of 1850, p. 210.

⁷Laws of 1846, p. 349. Laws of 1848, p. 198. Laws of 1850, p. 211.

⁸Laws of 1860, p. 88. Railroad, canal and colonization companies were included in this permission.

property was assessed to the owner, if he were known; otherwise it was assessed by description.¹

The laws were not explicit as to the measure of valuation of property, but used such indefinite expressions as "valuation," "cash valuation," "true value," and "average value." The act of May 13, 1846, simply said that each person should give a list of his property and "its valuation," verified by oath, and that the unrendered property of non-residents should be assessed by the assessor at "its cash valuation and no more."² In 1860 "true value" was made the measure, but the lands of non-residents were made subject to rendition at the "average value" of the lands in the county where situated for the year next preceding, this average value being ascertained from the assessment rolls by the comptroller and furnished to the assessors.³

The work of assessment and collection was done in each county by one officer who was called the assessor and collector. He was an elective officer and held office for two years. The official oath he took was laid down in the constitution and was that he should execute his duties faithfully. He also gave bond. Failure to return the assessment roll and malfeasance were the only violations of his duty for which there were penalties prescribed.⁴

Compensation of the assessor and collector for the work of assessment was on the basis of the assessed taxes. The schedule was as follows: 8% upon all sums of \$1,000 and less; 5% on sums between \$1,000 and \$2,000; 4%, between \$2,000 and \$5,000; 3%, between \$5,000 and \$10,000; and 1% on all sums over \$10,000. The same percentages were received upon the taxes assessed for county purposes until 1848, when one-half of the rates were allowed.

In making assessments the assessor was required to call at least once upon the owners and representatives of property in his county and receive a list of their taxable property. If the person sought to be assessed should not be at his usual place of abode, a written notice was left directing him to make his

¹Laws of 1846, p. 350.

²Laws of 1846, p. 349.

³Laws of 1860, p. 88.

⁴Laws of 1846, p. 347. Laws of 1848, p. 199. Laws of 1850, p. 212.

return to the assessor within the prescribed period of assessment. In 1860 the personal call required of the assessor was done away with, and the requirement which succeeded it was that the assessor should make known by public advertisement in each precinct, and at least ten days in advance, of the time and place he would attend to receive the lists of taxable property.¹ It was required of him to call upon those who did not attend, and for this trouble he was entitled to collect of all, except widows, a fee of \$1.00.

The taxable list furnished by the taxpayer contained under the act of 1846 not only an inventory of the taxable property but also its valuation, and all was verified by oath.² The inventory and valuation were conclusive as to the taxpayer's liability. In 1848 the law was changed so that only a sworn inventory was required of the taxpayers, the valuation being left to be determined between the taxpayer and the assessor. In the event of a disagreement between these parties over the value to be fixed, each party selected a "respectable freeholder," and should these disagree the arbitrators themselves called in a third party, and the decision of the majority was final.³ This remained the rule until 1860, when it was made the duty of the county court to inspect the rolls and correct to their true value the assessments of property in the county.⁴ This was the beginning in Texas of the method of equalization by a county board. Property situated outside the county was rendered at the average value of the lands in the county in which they were situated, such average to be ascertained by the comptroller. Up to this time the assessor had had no standard for the valuation of outside property.

In the act of 1846 provision was made for the assessment of the unrendered property of non-residents only. It was assessed to the owner, if known, otherwise by description, and it was assessed for its "cash valuation." In 1848 all property in the county which had not been rendered became subject to assessment and valuation by the assessor. The county clerk and the

¹Laws of 1860, p. 87.

²Laws of 1846, p. 349.

³Laws of 1848, p. 198.

⁴Laws of 1860, p. 87.

county and district surveyors were expected to exhibit their records and maps to the assessor for his assistance. Further changes were made in 1850 whereby the assessor had to assess only the unrendered personal property in his county. Unrendered land became subject to assessment by the comptroller's department, and in order that this might be done, the general land office was required to furnish the department with an abstract of all surveyed lands in the state, while the assessors were required to furnish maps of the towns in their counties. The department compared the assessment rolls with the abstracts and maps, the unrendered land was assessed at the average value of the surrounding land, and the assessments were then forwarded to the assessors and collectors.¹ The penalty for refusal or failure to render property was a fine of not more than \$50 nor less than \$10.² Property not rendered was subject to back taxation at the rates in effect during the years it escaped.

The roll which was prepared by each assessor set down in separate columns the names alphabetically arranged of the taxable persons; the amount and description of their property; the value of the property; and the amount of taxes. On or before July 1 three copies of the rolls were prepared, one of which was kept by the assessor, one was deposited with the county clerk, and one was forwarded to the comptroller. The assessor simply certified to the rolls; he was not required to swear that he had done his duty. It was doubtless thought that the oath which he took when he assumed office was sufficient. Willful failure or refusal to make and return the rolls, or making out and returning an unfair roll constituted malfeasance in office, and the penalty was a forfeit of double the damage sustained by the state, and this penalty was recoverable of the assessor or his bondsmen.

The work of assessment and collection was done by the same official, and the same graduated compensation was allowed him for collection as for assessment. After 1850, five cents a mile

¹Laws of 1850, pp. 213, 215.

²Laws of 1846, p. 350. Laws of 1848, p. 197. Laws of 1850, p. 211.

each way was allowed for traveling to the seat of government for the purpose of settling accounts.

Under the law of 1846 payment of taxes was required to be made by January 1, and returns by the collector to the state and county treasuries were required to be made by the same date.¹ In 1848 the law was changed so that payment of taxes should be made by November 1 and returns to the treasury by December 1.² The inconvenience to farmers of the date November 1 led in 1850 to a change to March 1, and to the December 1 following for non-residents.³ The provisions in regard to payments into the state treasury were also changed. Reports were required to be made to the comptroller every three months as to the collections of state taxes, and the assessor and collector was subject to draft for the amounts reported. Payment of county tax collections had to be made to the county treasurer every three months. Returns to the treasury of both state and county collections were required to be in by July 1 until 1854, when June 1 became the date.⁴ Until 1860 no notice of the collector's visit had to be given, but in that year it was prescribed that he should give ten days notice of the time and place he would attend in each precinct for the collection of taxes.

Until 1850 the exchequer bills issued by the Republic of Texas were legal tender in payment of taxes, but after 1850 only specie was receivable.⁵ The law as to the place of payment of taxes underwent frequent changes. Under the law of 1846 taxes on outside property could be paid in the county of the residence of the owner, or in the county of the situs of the property, or to the comptroller. In 1848 the law was changed so that payment could be made only in the county of the situs of the property or to the comptroller. The comptroller transmitted to the counties the amounts due them. The difficulties experienced by non-residents in finding trustworthy persons or agencies to carry the money for taxes led in 1850 to a return to the methods provided for in 1846.

¹Laws of 1846, pp. 352, 355.

²Laws of 1848, pp. 200, 201.

³Report of the Comptroller, 1848-1849. Laws of 1850, pp. 214, 215.

⁴Laws of 1854, p. 73.

⁵Laws of 1846, p. 355. Laws of 1848, p. 201. Laws of 1850, p. 216.

Neglect or refusal to pay taxes by the date set was followed by a levy upon and sale of as much property of the delinquent as was to be found in the county and to an amount sufficient to pay the taxes and costs.¹ Execution was made by the assessor and collector, and his tax list was credited to be sufficient authority for the act. Thirty days notice of the time and place of sale had to be given in several public places. The sale took place at public auction, and a deed given by the assessor and collector was, when recorded, *prima facie* evidence that all the requirements of the law for making the sale had been complied with. Until 1850, redemption of property sold for taxes could be made by the owner within one year of sale by payment of double the amount of taxes and the costs of sale; but in 1850 the period within which redemption could be made was extended to two years.

To cover the case of removal from the county without having paid the taxes assessed and without leaving sufficient taxable property to satisfy the taxes due, the act of 1846 provided that the assessor and collector should certify such delinquency to the assessor and collector of the county to which the delinquent had removed and that collection or levy and sale should take place in the latter county. This provision is not to be found in the law of 1848 or in subsequent laws, and the reason for its absence was no doubt that such delinquents were generally persons without property, except for a little personalty, so that not only would collection work a hardship but also the amount which might be collected would not repay the trouble.

The legislation of 1846 and the years closely following has been given in considerable detail in order that there might be a full understanding of the system of property taxation established at the beginning of statehood. It is surprising how few changes have been made in the system even after more than fifty years of its unsuccessful operation. In describing the legislation the writer is under no delusion that the tax system on the statute books was to the letter the one in operation. The description

¹Laws of 1846, p. 352. Costs were not provided for in the act of 1846, but they were in the act of 1848.

of the legislation is therefore followed by an account of the property tax in operation.¹

The rate of taxation for state purposes was low and the percentage of assessed value to true value was high during the period 1846-1860. From 1846 to 1850 the rate was twenty cents on the one hundred dollars' valuation; from 1850 to 1858, fifteen cents; and from 1858 to 1861, twelve and one-half cents. The United States Census of 1850 reported that assessed values were 96% of true values, and the census of 1860 gave assessed values as 73% of true values.²

Contemporaneous with the rate of 20 cents, assessed values increased 41%; but between 1849 and 1858, or the period of the rate of 15 cents, the increase in the value of assessed property was 308%, and between 1858 and 1861, the period of the 12½ cents rate, the increase was 60%. A number of circumstances

¹In a study of the operation of this tax little assistance can be got from the reports of receipts as given by the comptroller or the treasurer. The receipts from all taxes are lumped together in the reports of these officials.

²The assessed value of property on June 1, 1850, was, according to the United States Census, \$51,027,456; the real or true value was \$52,740,473; Abstract of Seventh Census. 1850. P. 46. The Compendium of the Seventh Census (p. 190), however, gives the value of the real property in 1850 as \$28,149,671, the value of the personal property as \$25,414,000, or a total value of \$53,563,671, and a true value of \$55,362,340. The values given in the Compendium probably are those returned by individuals, while the values given in the Abstract are based on official state records. The assessed value of property in 1850 as given by the state comptroller was \$51,814,615, but his figures probably include assessed values of counties which had not been returned at the time the census was taken.

The assessed value of real estate as ascertained by the census of 1860 was \$112,476,013, the assessed value of personal property was \$155,316,322. The true value, according to the census officials, was \$365,200,614. Eighth Census of the United States. 1860. Vol. Mortality and Miscellaneous Statistics, p. 294. The value of real estate on June 1, 1860, as returned by individuals to the census officials was \$191,166,301; the value of personal property was \$261,984,452, or a total of \$453,150,753. Ibid., p. 319. The assessed value of property in 1860 as reported by the state comptroller was \$294,315,639. The difference between the census figure of assessed values and the comptroller's figure was due probably to the difference in time of taking the two official records.

contributed to explain the increase in assessed values. The change in the law in 1850 whereby unrendered lands were assessed through the comptroller's department led to a better assessment of the property of non-residents. The relinquishment to the counties of nine-tenths of the state taxes between 1852 and 1858 reduced the general weight of taxation. The increase was due largely, however, to the growth of population and wealth. Between 1850 and 1860, the white population increased from 154,034 to 421,294, and the number of slaves from 58,161 to 182,566. The cash value of farm lands and buildings increased from \$16,550,008 in 1850 to \$88,101,320 in 1860, and the value of real and personal property increased from \$55,362,340 to \$453,150,753.

The wealth of the state consisted of those visible, tangible objects which might be expected to be found in a community wholly agricultural. Land, slaves, and livestock made up 95.2 per cent of the total assessments in 1846, and 90.2 per cent in 1860. Loaned money was the chief intangible item and constituted only nine-tenths of one per cent of the total assessment in 1849, and 1.4 per cent in 1859. Money loaned was subject throughout the period to a special tax of 20 cents on the \$100, but this was levied not as a property tax, but as a license tax. This was not a hard tax to bear since the interest rate varied from 10% to 20%.¹ The number of money lenders assessed rose from 255 in 1849 to 3,053 in 1859, and the amount assessed increased from \$120,315 to \$3,330,038.² The amount of credits which were assessed is not reported for this period. The absence in official reports and messages and in newspapers of complaint of evasion of taxation by money and credits indicates that their assessment, if a problem, was not acute. Nor was corporation taxation a problem. The general property tax was the only business tax, except the ordinary license taxes upon those engaged in merchandise, liquor, and other occupations. There were no railroads before 1854; there were only stage coaches and steamboats. There was not only no special taxation prescribed for these, but their assessments under the general property tax were not particularized, and so details as to their taxa-

¹Texas Almanac, 1858, pp. 61, 65; *ibid.*, 1859, p. 182.

²Reports of the comptroller, 1849, 1859.

tion are not ascertainable. The incorporation of state banks was prohibited by the constitution, and the only banks in the state were private banks and one or two banks which had been chartered by the republic. According to the United States Census of 1860, there was only one bank in Texas, and that was a small one in Galveston.¹ Evidently the general property tax and the license tax upon money loaned were thought sufficient for the taxation of banks.

The weakness of the tax system was not the failure to tax corporations or to reach personalty, but it was the escape of land both from assessment and from proper valuation. The difficulty that existed as to the taxation of land was due to the enormous extent of non-resident holdings. In 1852, for example, in twenty-four out of eighty-three counties reporting, the land outside the county rendered for assessment was greater than that within; and in only six of the twenty-four were the assessed values of the outside holdings larger than those for the lands within.² It was permitted to render outside holdings in the county of residence, and this opened the way for non-rendition and undervaluation. Under the law of 1846 assessors were required to make a separate return to the comptroller of the renditions of outside holdings, accompanying the returns with a description of each piece of land rendered.³ Each assessor was also required to make a return of all property in his county not rendered for assessment, accompanied by a description and valuation of each piece. The comptroller compared the returns to ascertain what lands were uncovered by other returns, and advised each assessor of the lands in his county which had not been rendered elsewhere. Because of labor and trouble involved in getting from the surveyors' files a description of the un-rendered lands, many assessors made no effort to assess them; and often when assessments were made they could not be used by the comptroller because the records or descriptions were imperfect.⁴ The chaotic situation was taken advantage of by land-

¹Vol. Mortality and Miscellaneous Statistics, p. 29.

²Compiled from the Report of the Comptroller, 1852-3. Galveston County in 1852 reported 89,896 acres assessed within the county and 2,236,950 acres out of the county; Nacogdoches County reported 440,660 acres assessed within and 1,919,686 acres without the county.

³Laws of 1846, p. 350.

⁴Report of the Comptroller, 1847; House Journal, 2nd Leg., p. 44.

owners and evasion was rife. In 1849 the number of acres assessed was 32,890,887, while the amount of patented and deeded land in the state was 45,234,987 acres.¹ In 1850 the law was changed so that the comptroller became possessed of both county and town maps and so became enabled to compare the returns with the maps of each county and as a result determine what lands had not been rendered. The amount of land assessed increased by more than five million acres in the year following this change in the law, while for the five preceding years it had remained practically stationary. The change in the law may have accounted for some of this increase, but the law imposed too huge a task upon the comptroller's department. Maps and other data were not kept up, and the most important evidence of the breakdown of the system is that there was little change in the number of acres assessed after 1855, though this was a period when land was being constantly patented.²

The conditions with respect to valuation was no better than those of rendition. Valuation was made where the property was rendered, but the machinery for revision of values existed in the county where the property was located. It was impossible for an assessor to know the relative value of land in the various and distant parts of the state and the inevitable result was undervaluation.³ The plan of a minimum value per acre, such as existed under the republic, was suggested, but was not adopted.⁴

The situation as to evasion of taxation was aggravated by a loss of confidence in tax titles. The laws relating to the sale of property for taxes were minutely drawn and unless every detail were carried out by the officials in charge of the assessment and collection of the taxes and of the levy upon the property the

¹Report of the Comptroller, 1848-9, p. 7.

²Report of the Comptroller, 1856-7, p. 22; 1858-9, p. 16. Message of Governor Runnels, November 10, 1859; House Journal, 8th Leg., p. 42. Message of Governor Houston, January 13, 1860; House Journal, 8th Leg., p. 397. In 1856 out of over 68,000,000 acres of patented land, only 44,110,437 were assessed; House Journal, 7th Leg., p. 483.

³Report of Joint Select Committee on Taxation; House Journal, 7th Leg., p. 483. See also references in preceding note.

⁴Report of the Comptroller, 1856-7, p. 19.

courts would not sustain the title.¹ The frequency with which they were not sustained contributed to neglect of rendition and of payment.² The failure of land which was assessed outside the county of situs to pay its share of the taxes became a subject of increasing complaints and led a joint select committee of the house and senate which was appointed to examine the tax laws to pronounce the system of taxation a "farce" in its operation.³

An estimate of arrearages and of costs of assessment and collection of ad valorem taxes can be made by comparing assessments and receipts of several years. The taxes assessed one year were not as a rule paid into the treasury until the following fiscal year. The assessments of 1846 and 1847 amounting to \$214,103 should have been paid by the end of the fiscal year 1848, but only \$150,616 was received. Arrears and costs amounted to about 30%. The assessments of 1858 were \$294,758 but the receipts of 1859, including back taxes, were \$221,231, showing arrears and costs of over 25 per cent. In 1848-9 the estimated cost of assessment and collection was 13½ per cent; delinquency amounted to from 12½ per cent to 16½ per cent.

Taxation as a source of revenue was not important during the greater part of this period. The state was sustained in the first year of its history by the revenue which had accrued under the laws of the republic, and after 1850 the indemnity bonds were used. From 1852 to 1858 nine-tenths of the state taxes were relinquished to the counties, and as the rate was only 12½ cents in 1858, the bonds continued to be the chief dependence of the state government.

By the act of February 13, 1852, it was provided that inasmuch as many of the counties were in debt and were in need of courthouses, jails, jury funds and the like, nine-tenths of the state tax on the assessments of 1852 and 1853 should be relinquished to the counties where the tax was assessed, the re-

¹*Yenda v. Wheeler*, 9 Tex., 408 (1853). *Pitts v. Booth*, 15 Tex., 453 (1855).

²Report of the Comptroller, 1858-9, p. 17. In the report for 1848-9 the comptroller stated that probably one-third of non-resident assessments would not be paid and would have to be secured by a sale of property.

³House Journal, 7th Leg., p. 483.

maining one-tenth to be paid into the state treasury for the benefit of the school fund.¹ Again in 1854 and 1855 relinquishment was made to the counties where the taxes were assessed, but in 1856 and 1857 relinquishment was made for the benefit of the counties where the property was situated.² The act of 1854 was vetoed because the governor thought that the counties in which the property was located should get the benefit, but the veto was nullified by a two-thirds vote of the legislature. The act of 1856 also was vetoed for the same reason, but was passed over the veto. This policy of relinquishment was unequal in its operation and was carried too far. The counties in which there were large assessments of property situated outside their boundaries profited unjustly at the expense of the counties in which the property was located.³ The counties which were favored were the richer counties, and those most discriminated against were the frontier counties.⁴ The policy was followed longer than was necessary to secure in the majority of the counties the purposes for which relinquishment was made. After 1855 a better policy would have been to have relinquished the taxes only to the frontier and the new counties.

B. Business Taxes.

The property tax was a business tax inasmuch as it applied to the real and personal property which was employed in any business. In fact, the property tax was the only business tax, except license or occupation taxes upon certain occupations.

Payment of the occupation tax levied by the state was made to the assessor and collector of taxes, and the license was issued by the county clerk upon presentation of the tax receipt.⁵ Until 1848 the shortest time for which a license could be issued was one year, but in 1848 four months were made the minimum period. Under the act of 1846 failure or refusal to pay the tax subjected the person to a forfeiture of double the amount of the

¹Laws of 1852, p. 93.

²Laws of 1854, p. 30. Laws of 1856, Adj. Sess., p. 43.

³Veto message of Governor Pease, January 21, 1854.

⁴Brazoria, Fort Bend, Galveston, Matagorda and Nacogdoches were counties which had in 1852 the largest excess of outside holdings, and they were also the richest counties.

⁵Laws of 1846, p. 357. Laws of 1848, p. 203. Laws of 1850, p. 218.

tax for each month in which the business was engaged in without a license, and recovery of this penalty was by suit brought in a court of proper jurisdiction.¹ From 1848 to 1858, only the amount of the tax was recoverable, and the delinquent's property could be levied upon and sold for that purpose. In 1858 the penalty of double the amount of the tax was restored.

Practically all occupations, except agricultural and mechanical, were taxed. Lawyers and doctors were taxed \$5 annually until 1848, when the tax was repealed. The taxes on the merchandise and liquor occupations were the most important. Under the act of April 28, 1846, wholesale merchants were taxed \$100 on each establishment; retail merchants, \$25; dealers in spirituous liquors in quantities of a quart or over, \$25; dealers in quantities of less than a quart, \$50.² This method of a uniform charge irrespective of the amount of capital employed in the business was thought to operate unequally upon the small dealer and to lead to the concentration of business in the towns and in the hands of a few persons.³ In 1848 the law was changed in order to meet these objections, and there was levied a tax of one-fifth of one per cent on the purchases of wholesale and retail merchants and of dealers in spirituous liquors in quantities of a quart or more.⁴ The assessor was required to call upon dealers at least every three months to get the returns of purchases. Failure to make true returns made the offender liable to a fine of \$50. This special tax was in addition to the ad valorem tax on the property, including the stock in trade, of the taxpayers.⁵ The immediate result of the law of 1848 was a decrease in receipts from the occupation tax which amounted to 32 per cent in 1848 as compared with the receipts of 1847, and to 23 per cent in 1849 as compared with receipts of 1848. The receipts from liquor dealers and merchants were nearly equal until 1855, but in that

¹*Aulanier v. the Governor*, 1 Tex., 653 (1846); *State v. Bock*, 9 Tex., 369 (1853).

²*Laws of 1846*, p. 146.

³Report of the Committee on Finance; *House Journal*, 2nd Leg., pp. 318-320.

⁴*Laws of 1848*, p. 151. *Laws of 1858*, p. 258. *State v. Stephen*, 4 Tex., 140 (1849).

⁵*Laws of 1848*, p. 152.

year an anti-liquor movement over the state cut down retail establishments and lessened the receipts from the liquor taxes.¹

The receipts from occupation taxes fluctuated from year to year and they constituted only 11.5 per cent of the assessed taxes to 1860. The system of taxing according to purchases provided an opportunity for evasion, and the conclusion was in 1861 that the law utterly failed of its purpose.²

C. The Poll Tax.

From 1846 to 1848 a poll tax of \$1.00 was levied upon every free male person between the ages of 21 and 60, Indians and persons *non compos mentis* excepted.³ In 1848 the age limits were made 21 and 55.⁴ In 1858 the tax was reduced to fifty cents, and the maximum age limit was changed to 50.⁵ There were 15,310 persons assessed for the tax in 1846, and 53,376 in 1859. The United States Census of 1850 reported for Texas a white male population between the ages of 20 and 60 of 38,692, and the census of 1860 reported one of 91,197 between the ages of 20 and 50. Those assessed for the tax in 1859 were approximately 58 per cent of those who were liable. The poll taxes assessed from 1846 to 1860 constituted 9.8 per cent of the total assessed taxes.

The receipts from all the different taxes levied by the state, the counties, the towns, and other taxing districts, amounted in 1852 to \$131,313, divided as follows: state, \$74,936; county, \$35,055; all others, \$21,332.⁶ The census does not tell from what taxes these receipts were derived. In 1860 the total tax receipts of the different taxing jurisdictions were \$533,265, divided as follows: state, \$298,859; counties, \$208,053; towns and cities, \$24,409; school and miscellaneous, \$1,944.⁷ Not much reliance

¹Report of the Comptroller, 1854-5, p. 13; 1858-9, p. 14. Also message of Governor Pease, November 5, 1855; Senate Journal, 6th Leg. Reg. Sess., p. 12.

²Report of the Comptroller, 1860-1, p. 105.

³Laws of 1846, p. 146.

⁴Laws of 1848, p. 151.

⁵Laws of 1858, p. 258.

⁶Compendium of the Seventh Census of the United States, p. 190.

⁷Eighth Census of the United States. 1860. Vol. Mortality and Miscellaneous Statistics, p. 511.

can be put in the amount reported for towns and cities, for it is obviously too small. There were forty-two towns and cities in Texas in 1860 with populations ranging from about 100 to over 8,000, and it is absurd to believe that their total tax bill was only \$24,409. The explanation for the small amount reported may be that the census has included under county tax receipts some receipts which belong to towns and cities.

D. Receipts from Other Sources.

Of great importance to the state in the first year of its history were the receipts on account of the revenue due the Republic of Texas. They amounted to \$125,993, and are to be compared with about \$58,000 of receipts on account of state revenue laws.¹ The state received from 1846 to 1856 on account of the revenue laws of the republic, \$161,722 in specie.² As the first years of statehood were very lean years, these specie receipts came in most opportunely.³

The public lands were a source of but small cash receipts during this first period of statehood, unless the cession of the northwestern territory to the United States be considered a sale of land and the \$12,750,000 in United States bonds and cash be regarded as the purchase price. The cash receipts from individuals were small because the first general provision for the sale of the lands was not made until February 11, 1858, and, furthermore, the paper liabilities of the republic were made receivable in payment of the fees and dues charged by the general land office.⁴ The act of 1858 fixed the price of land at \$1 per acre, except in the islands and in the alternate sections in the railroad surveys and in the surveys of the Galveston and Brazos Navigation Company the price was \$1.25 per acre, and in the Memphis, El Paso and Pacific grant, where the price was

¹In *Cocke v. Calkin*, 1 Tex., 542 (1846), it was decided that the laws of the republic regulating imposts existed in force until February 16, 1846; but this was overruled by the United States Supreme Court in *Calkin v. Cocke*, 14 Howard, 227. The sum involved in this case was about \$7,000.

²Classification of receipts of this character ceases in 1856.

³Report of the Comptroller, 1847; House Journal, 2nd Leg., p. 42.

⁴Laws of 1849, p. 23.

\$2 per acre.¹ The receipts went to the school fund, but they were small because the prices fixed were too high. Land was superabundant and the market price was probably nearer 50 cents than \$1 per acre.² Pre-emption privileges were accorded by the laws during this period, except between August 15, 1856, and February 10, 1858.

The act of February 11, 1850, authorized the payment of the public debt in land scrip at the rate of 50 cents per acre, but the creditors refused to take advantage of the act. The most important legislation affecting the public lands during this period was the adoption of the policy of land grants to railroads. The act of January 30, 1854, granted to any company constructing twenty-five miles or more of railroad sixteen sections of land for every mile of completed road.³ The expense of surveying the lands fell upon the railroads, and in this way the state secured without expense the survey of the alternate sections which it retained. The act of February 3, 1854, granted land for the construction of sea vessels in the state.⁴ There were also grants for the boring of artesian wells between the Nueces and Rio Grande rivers, and it has been said of them that they were "one of the numerous schemes for wasting the public domain afterwards so prolific."⁵

In 1856 the approval of the commissioner of claims was required for all bounty and donation certificates which had not been patented, and in 1858 it was provided that all claims for land for military services should be presented to the commissioner of claims on or before September 1, 1858, or be forever barred. In 1860 the date beyond which claims could be barred was made June 1, 1861.⁶

The policy of homestead grants, which had been applied in 1838 to a military road reservation, was expanded during this period. In 1853 an amendment to the pre-emption law of

¹Laws of 1858, p. 193.

²Report of the Comptroller, 1860-1, p. 101.

³Laws of 1854, p. 11.

⁴Laws of 1854, p. 34.

⁵Wooten, *A Comprehensive History of Texas*, vol. 1, p. 833. Laws of 1858, pp. 84, 130.

⁶Laws of 1856, p. 14. Laws of 1858, p. 40. Laws of 1860, p. 48.

January 22, 1845, accorded to settlers under that act the privilege of claiming a homestead, but both the acts of 1845 and 1853 were repealed by the act of February 13, 1854.¹ By the act of 1854 a homestead of not exceeding 160 acres was granted to persons who had settled upon and cultivated for three years a portion of the vacant public domain. This act was repealed by the act of August 26, 1856, and this repeal ended the homestead policy until 1866.²

By the act of August 30, 1856, one hundred thousand acres of land were granted to each of the asylums for the insane, the deaf and dumb, the blind and the orphaned, and an additional grant of land was made to the school and university funds, but only the university land was authorized to be sold.³

The fees chargeable by the secretary of state, the commissioner of the general land office, the comptroller, treasurer, and attorney general were prescribed in 1848.⁴ Apparently the receipts from fees were insignificant. Their amounts cannot be ascertained from the reports after 1853, but are included under miscellaneous revenue.

¹Laws of 1853, p. 33. Laws of 1854, p. 106.

²Laws of 1856, Adj. Sess., p. 56.

³Laws of 1856, Adj. Sess., pp. 76, 71.

⁴Law of 1848, p. 184.

CHAPTER 5.

THE PUBLIC DEBT.

The controversy over the settlement of the debt of the Republic of Texas which was inherited by the State of Texas is one of the most spectacular features in the whole financial history of Texas. The attempt was made to have the United States assume this debt as one of the conditions of the annexation of Texas.¹ But the joint resolution of the United States Congress under which annexation took place provided that Texas should retain her public domain to be applied to the payment of the debt of the republic. In this resolution the United States specifically disclaimed any responsibility for the debt.²

An estimate of the debt of the Republic of Texas at the beginning of statehood was \$9,949,007.³ Until 1852 the settlement of the debt was the paramount legislative question, but thereafter it shared with internal improvements the public and legislative interest.

As contemplated in the annexation resolution the public domain was looked to as the source of payment; but how it could be made available was the pressing problem. The plan presented by the first two governors, Henderson and Wood, and lengthily considered by the legislature, was to sell the unappropriated lands to the United States.⁴ What the advantages of this arrangement would be to Texas were obvious.

¹Texas Diplomatic Correspondence, vol. 2, pp. 278, 328.

²House Misc. Doc. No. 17, 33rd Cong., 2nd Sess., p. 28.

³Statement of the comptroller, March 20, 1846; House Journal, 1st Leg., p. 317. A statement by the comptroller on December 3, 1847, estimated the amount at \$10,050,201; House Journal, 2nd Leg., p. 55.

⁴Message of Governor Henderson, February 24, 1846; Senate Journal, 1st Leg., appendix, p. 8. Report of Senate Committee on the Sale of the Public Domain; Senate Journal, 1st Leg., p. 114. Report of the House Committee on the Sale of the Public Domain; House Journal, 1st Leg., p. 302. Message of Governor Wood, December 29, 1847; House Journal, 2nd Leg., p. 167. Also message of November 6, 1849; House Journal, 3rd Leg., p. 17.

It would avoid the cost in time and money of the survey of the lands and would provide immediately proceeds which otherwise would be slowly forthcoming from the sale of the lands. The reasons presented for the United States acquiring them were that they could be profitably sold, that they would enable the United States to acquire control over the Indian tribes, and that acquisition was necessary in order for the United States to fulfill "its high mission to the human race, by preventing savage war and bloodshed, by subduing and fertilizing the wilderness, by anticipating ages, and extending the empire of American civilization and laws."¹ The alternative to this plan of sale was that payment of the debt should be made in land.² A third plan was that of refunding the debt in state bonds.³

The First Legislature came to no conclusion as to which plan should be adopted, and the net result of its deliberations was that the debt should first be ascertained and classified.⁴ Accordingly the Second Legislature passed the act of March 20, 1848, which provided that the auditor and comptroller of the state should ascertain the debt, reducing it to the "actual par value which may have been realized by the Republic."⁵ The report of these officials was submitted on January 1, 1850.⁶ It gave as the amount of debt filed for auditing, \$7,213,477.43; as the estimated amount not filed, \$3,842,217.28. The total of these was \$11,055,694.70. This total scaled according to the principle of value received at the time of issue amounted to \$5,600,696.⁷

That the debt should be scaled was an accepted idea from the beginning of the discussion over payment. Sam Houston

¹Report of House Committee; House Journal, 1st Leg., p. 302.

²Report of House Committee; House Journal, 1st Leg., p. 304. Message of Governor Wood, November 6, 1849; House Journal, 3rd Leg., p. 18.

³Report of the Comptroller, December 3, 1847; House Journal, 2nd Leg., p. 53.

⁴Report of Senate Committee, April 19, 1846; Senate Journal, 1st Leg., p. 219.

⁵Laws of 1848, p. 208.

⁶House Journal, 3rd Leg., pp. 210-223.

⁷For statement of items and ratings see *supra*, p. 126.

wrote in 1844: "The assumption of our debts by the United States is a very trifling item, and as the liabilities were mostly incurred on the principle of equivalents, the whole debt will not amount to five millions. All our 10% bonds, as well as I am advised, were issued 6 for 1. I think the principle of equivalents was established in the early part of 1839, and the depreciation was pretty rapid until the close of Lamar's administration, when Red Backs were issued at 8 for 1. Thus you will perceive that the United States will not in equity be bound to redeem the liabilities of Texas at a higher rate than what they were issued."¹ Governor Wood declared in 1849 that "neither good faith nor the most fastidious conception of morality" required the state to pay more than the equivalent value that the republic received.² To the advocates of scaling, the all-sufficient reasons for it were that the liabilities had been issued at varying rates of discount and were largely held outside the state and by others than the original owners.³

The advocates of paying the debt at its face value were few; they had no place on the legislative committee considering the debt,—at least they left no evidence of their membership by minority reports or protests; and their motives were impugned as having origin "if not in individual gain, at least in a desire for moral fame which leaps over the boundaries prescribed by the ethics of this utilitarian age."⁴

With the ascertainment and scaling of the debt accomplished,

¹Houston to Van Zandt and Henderson, May 10, 1848; *Texas Diplomatic Correspondence*, vol. 2, p. 278. See also *ibid.*, p. 328.

²House Journal, 3rd Leg., p. 343.

³Report of Committee on Sale of Public Domain; Senate Journal, 1st Leg., p. 114. Report of Committee on Public Lands; *ibid.*, p. 219. Report of Committee on Sale of Public Domain; House Journal, 1st Leg., p. 307. Report of Special Committee on the Debt; House Journal, 2nd Leg., p. 408. Message of Governor Wood, 1847; House Journal, 2nd Leg., p. 147. Message of Governor Bell, 1849; House Journal, 3rd Leg., p. 343. Report of the Auditor and Comptroller, December 27, 1849. See also Gouge, *op. cit.*, pp. 146, 153, and the *Texas State Gazette*, May 31, June 28, August 2, September 20, October 4, and November 15, 1851.

⁴Message of Governor Bell, December 26, 1849; House Journal, 3rd Leg., p. 343. The *Galveston Weekly News* favored payment at full value. See issues of May 6 and July 15, 1851.

provision was made by the act of February 11, 1850, for payment in land at the rate of fifty cents an acre.¹ It was provided also that interest should cease on all liabilities after July 1, 1850, the purpose of this provision being to force creditors to accept payment in land immediately.

The scheme of scaling, or, as it was more euphemistically called, classification of the debt, which was adopted by Texas, and the plan for payment in land were not acceptable to the creditors. They could not be blamed for refusing to accept land, because the land was in a wilderness, was too abundant to have any value until after a long lapse of time, and until disposed of it would be subject to taxation and to all the risks of loss which non-residents ran.²

The inability of the state to make payment except with land and the unwillingness of the creditors to accept this medium resulted in a deadlock. The way out was fortunately provided as the result of a dispute between Texas and the United States over the state's northwestern boundary. The military occupancy of the territory now comprehended in New Mexico was resented by Texas, and a special session of the legislature was called in August, 1850, to protect the claims of the state against the United States.³ The use of armed force against the United States was urged, if it should be necessary to enforce the claims of Texas.

Three measures were introduced in the Senate of the United States looking to the settlement of this dispute. The first was called the "Texas Reduction Limits Bill", and was introduced by Senator Benton, of Missouri, January 16, 1850. It provided that in consideration for the cession by Texas of the northwest territory in dispute, and the relinquishment by Texas of all claims against the United States for the debts of the Republic

¹Laws of 1850, p. 198. Message of Governor Wood, November 6, 1849; House Journal, 3rd Leg., p. 18. Message of Governor Bell, December 26, 1849; *ibid.*, p. 343. See also Gouge, *op. cit.*, p. 161.

²Gouge, *op. cit.*, p. 169.

³Message of Governor Bell, August 13, 1850; House Journal, 3rd Leg., Second Sess., p. 11. See also message of Governor Wood, March 2, 1848; House Journal, 2nd Leg., p. 901. Messages of Governor Bell, 1849; House Journal, 3rd Leg., pp. 343, 365. Congressional Globe, vol. 21, pt. 2, pp. 1526-7.

of Texas and in consideration for the customs houses and other public property surrendered by the state at annexation, the United States would pay \$15,000,000 in five per cent bonds.¹ This contemplated cession of new territory involved the bill in the slavery controversy, and on January 29, 1850, Henry Clay submitted to the Senate eight resolutions of a compromise nature, one of which provided that for the relinquishment by Texas of all claims to any part of New Mexico the United States would pay that part of the debt of the Republic of Texas which was secured by import duties.² The resolutions were referred to the Committee of Thirteen, the report of which was made by Mr. Clay on May 8, 1850.³ The committee reported in favor of a bond payment to Texas, the bonds to be applied first to the extinction of any debts for which the duties on imports were pledged.⁴ The "Omnibus Bill," of which the bill containing these provisions was a part, broke down. As an independent solution of the Texas question, Senator Pearce, of Maryland, introduced the "Texas Boundary Bill". It contained the usual provisions as to cession of territory and relinquishment of claims against the United States, but proposed as the amount of indemnity to Texas \$10,000,000 in five per cent bonds, and incorporated the important proviso that \$5,000,000 should not be issued "until the creditors of the state holding bonds of Texas for which duties on imports were specially pledged shall first file at the treasury of the United States releases of all claims against the United States for or on account of said bonds."⁵ This bill was passed by the Senate on August 9, 1850, and by the House on September 6, and was approved on September 9.⁶

Texas accepted this act on November 25, 1850.⁷ As an immediate result of it, she ceded 67,000,000 acres of public land, and came into possession of \$5,000,000 in United States bonds. Provision for payment of the debt was deferred, however, because of the large amount of unascertained claims and of the need of

¹Cong. Globe, vol. 21, pt. 1, p. 166.

²Ibid., p. 245.

³Ibid., p. 945.

⁴Ibid., p. 947.

⁵Ibid., vol. 21, pt. 2, p. 1520.

⁶Ibid., pp. 1555, 1764.

⁷Laws of 1850. Second Session, p. 4.

construction of the proviso relating to the five millions reserved in the United States Treasury. The contentions of Texas were that she alone was qualified to define what constituted the revenue debt, that payment should be made on the basis of her rating of the debt, and that as soon as an appropriation was made by her for any part of this debt and releases for it were filed with the United States Treasury, an equal amount of the reserved five millions should be turned over to her as a refund.¹ As to the first and third contentions, Texas was at a disadvantage because the Boundary Act left their settlement to the officials of the United States. The Texas officials wanted to restrict the revenue debt to those securities only upon whose face redemption was stated to be secured by duties on imports.² The Secretary of the Treasury, Mr. Corwin, ruled, however, that the section in the act of the Republic of Texas of January 14, 1840, which pledged the revenues for the redemption of all loans negotiated by the authority of the republic comprehended all loans negotiated prior to that act, and that all public loans and all the liabilities receivable for public dues were therefore debts for which duties on imports were specifically pledged. The ruling was approved by President Fillmore, September 13, 1851.³ The effect of this rule was to include all bonds, except the 8% and 10% funding bonds of the act of February 5, 1840. But this interpretation of the revenue debt was modified in 1853 by Mr. Cushing, the Attorney General of the United States. He construed the act of the Republic of Texas of January 14, 1840, to apply not only to past debts but also to future loans, and he held further that the phrase "bonds or certificates of stocks" in the proviso of the Boundary Act should be construed in their accepted financial sense.⁴ The effect of Mr. Cushing's construction was to include under the revenue debt the 8% and 10% bonds of the act of February 5, 1840, and to exclude the treasury

¹Message of Governor Bell, November 10, 1851. Speech of Mr. Bell; Cong. Globe, vol. 28 pt. 3, p. 595.

²Report of the Joint Select Committee of the Senate and House; Senate Journal, 3rd Leg., Third Sess., p. 39.

³House Misc. Doc. No. 17, 33d Cong., 2nd Sess., pp. 4-9. The Texas State Gazette, October 4, 1851.

⁴House Misc. Doc. No. 17, 33d Cong., 2nd Sess., pp. 12-23.

notes.¹ The interpretation by the United States authorities of what should be included under the revenue debt was thus contrary to the wishes of Texas. The ruling of Secretary Corwin that none of the reserved bonds would be turned over to Texas until releases for all the revenue debt were filed was also adverse to the contention of Texas.

The interpretation by the officials of the United States of the proviso in the Boundary Act and the report of the auditor and the comptroller of the debts as ascertained to November 12, 1851, were followed by the long delayed act for the payment of the debt of the republic. This was the act of January 31, 1852.² It accepted the rating of the debt as given in the auditorial report of 1851 and appropriated \$2,000,000 of the United States bonds as a means of payment. It provided that the non-revenue debt should be paid unconditionally, but that no payment should be made on the revenue debt until the governor was notified by the President that there would be issued an amount of the reserved five million of bonds equal to the amount of releases filed by the creditors with the United States Treasury. The debt for which unconditional payment was provided consisted of audited paper, audited claims, miscellaneous liabilities, and the 8% and 10% bonds issued under the act of February 5, 1840. The par value of these debts, not including interest, was \$1,678,242, but scaled, the amount was \$1,058,779.

Another deadlock between the state and the creditors took place. The condition attached by Texas to the payment of the revenue debt flew in the face of the ruling of Secretary Corwin. This ruling would in its operation work a hardship upon the state, for it would prevent reimbursement for payments on the revenue debt until all this class of creditors filed their releases with the United States. Unless a reasonable length of time were prescribed within which filing should take place, the state could be held up by tardy creditors and the state treasury would be deprived of the funds expended for an unnecessarily long time.³ At the same time this ruling protected the United States, and it

¹Report of the Comptroller, 1852-3, p. 7.

²Laws of 1852, p. 38.

³Speech of Mr. Bell, Cong. Globe, vol. 28, pt. 3, p. 595. Message of Governor Pease, December 23, 1853.

was very much to the interest of the creditors. The other cause of the deadlock was the refusal of the creditors to accept the scaled rates adopted by Texas.

Memorials of creditors, some praying for a modification of the secretary's ruling in order that payment might be begun by Texas at the scaled rates; others proposing the responsibility of the United States for the full payment of the revenue debt, brought the matter into Congress.¹ In the Senate on August 26, 1852, there failed a proposed amendment to a foreign relations bill which would have permitted the issue of bonds to Texas as fast as releases were filed.² It was developed in the debate upon this amendment that creditors whose claims had been scaled but little would accept payment and that those whose claims were heavily scaled would not be satisfied and would continue to demand relief from Congress.³ The creditors contended that the responsibility of the United States arose when Texas lost through annexation the right to impose the customs duties which were pledged for the payment of the public loans, and they contended further that this responsibility was virtually admitted by the "Boundary Act" in the proviso reserving the \$5,000,000 of bonds.⁴ The contention of the creditors was accepted in the two reports of the Senate Finance Committee to which the memorials were referred, and was the basis of the later action of Congress.⁵ With its report on August 17, 1852, the Senate Finance Committee submitted a bill to appropriate in lieu of the \$5,000,000 of reserved bonds, \$8,555,000 in 5% bonds, to be divided equally among the holders of the revenue debt.⁶ The Thirty-Second Congress expired without any action being taken.

The question was reopened in the first session of the Thirty-Third Congress by the introduction on December 12, 1853, of a

¹Cong. Globe, vol. 24 pt. 3, pp. 2231, 2380; vol. 28, passim.

²Ibid., vol. 24, pt. 3, p. 2380.

³Ibid., p. 2381.

⁴Gouge, op. cit., pp. 312-316.

⁵Report of August 17, 1852. in Gouge, op. cit., pp. 312-316. Report of July 1, 1854; House Misc. Doc. No. 17, 33d Cong., 2nd Sess., pp. 23-28.

⁶Mr. Pearce, of Maryland, chairman of the committee, stated in his speech of August 26, 1852, that the committee proposed to appropriate \$8,333,000 in 3 per cent bonds. See also message of Governor Bell, January 13, 1853; Senate Journal, 4th Leg., Second Sess., p. 20.

bill by Senator Thompson, of Kentucky, which proposed the distribution of \$8,333,000 in 3% bonds among the revenue debt creditors.¹ The Senate Finance Committee, to which it was referred, reported it on June 15, 1854, with a substitute which proposed a pro rata distribution of \$6,500,000 in cash.² This substitute did not meet the approval of the chairman and of other members of the committee and it was recommitted to the committee on June 21. The committee again reported on July 1, 1854, but this time in favor of a distribution of \$8,500,000 in cash.³ This amount was equal to the face value of \$5,000,000 of reserved bonds with interest to maturity.⁴ An amendment by Mr. Bright, of Indiana, that the interest on the debt should be regulated by the existing laws of Texas was agreed to, but an amendment by Mr. Chase, of Ohio, to reduce the amount to \$6,500,000 was defeated.⁵ The amount proposed by Mr. Chase and later by the House was the reserved \$5,000,000 with premium and with interest to date.⁶ The bill with the Bright Amendment passed the Senate July 21, 1854, by a vote of 27 to 19.⁷ The first session ended, however, without any action being taken by the House. At the second session the House made seven amendments. They were, principally, that the sum to be appropriated should be reduced to \$6,550,000, and that the act should not become effective until assented to by the legislature of Texas nor until the legislature should withdraw and abandon all claims and demands against the United States on account of Indian depredations, prior to the admission of the state into the Union.⁸ The bill as amended passed the House February 7, 1855, by a vote of 153 to 43.⁹ The Senate disagreed to the amendments and the bill went to conference.¹⁰ In the conference the Senate withdrew from its disagreements to the House amendments, and the

¹Cong. Globe, vol. 28, pt. 1, p. 28, and pt. 3, p. 1806.

²Cong. Globe, vol. 28, pt. 3, p. 1806.

³Ibid., p. 1806.

⁴Cong. Globe, vol. 28, pt. 3, p. 1845.

⁵Cong. Globe, vol. 28, pt. 3, p. 1845.

⁶Ibid., p. 1844.

⁷Ibid., p. 1845.

⁸Cong. Globe, vol. 30, pt. 1, pp. 618, 619.

⁹Ibid., p. 619.

¹⁰Ibid., pp. 719, 743.

amount to be appropriated was agreed upon at \$7,750,000.¹ The conference bill was accepted by the House by a vote of 123 to 77 and by the Senate by a vote of 30 to 14. The bill was approved February 28, 1855.²

The \$7,750,000 was to be pro-rated among the holders of the debt reported to be within the provisions of the act of September 9, 1850, by Secretary Corwin and Attorney General Cushing. Thus the difference of opinion between these officials was done away with. The items and the par and scaled amounts of the revenue debt with interest to July 1, 1850, were as follows:³

Description of debt.	Par amount.	Texas rating on the dollar.	Scaled amount.
Ten per cent funding bonds, act of June 7, 1837.....	\$1,657,803.33	.70	\$1,160,462.33
Ditto, issued to Swartwout	29,291.47	1.00	29,291.47
Ten per cent bonds author- ized by the five million loan acts:			
Dawson debt	1,211,000.00	.50	605,500.00
Holford debt	411,404.70	.50	205,702.35
Pennsylvania Bank of the United States.....	960,498.00	.8745	839,955.50
Ten per cent funding bonds, act of February 5, 1840	1,627,784.16	.30	488,335.24
Eight per cent funding bonds, act of February 5, 1840	46,596.26	.30	13,978.87
Eight per cent treasury bonds, act of February 5, 1840	1,417,680.00	.20	283,536.00
Ten per cent treasury notes, first issue	65,208.33	1.00	65,208.33
Ditto, second issue	451,708.32	.50	225,854.16
Non-interest treasury notes	2,199,728.64	.25	549,932.16
Total.....	\$ 10,078,703.21		\$ 4,467,756.41

The question of acceptance or rejection of the proposal of debt payment contained in this act was submitted to the voters of Texas in the general election of 1854. There were 11,609 votes in favor of acceptance and 13,818 against. Though the question was one of great importance to the state, only 25,427

¹Ibid., pp. 853, 863.

²Ibid., p. 990. For act see U. S. Statutes at Large, X, ch. 129.

³Report of the Comptroller, 1854-5.

out of over 45,000 who voted in the election expressed themselves as to the proposition submitted.¹

According to the provisions of the act acceptance or rejection was lodged with the legislature, and though the vote of the people was adverse to acceptance, the legislature gave the question independent consideration. Within the legislature the contest was stubborn as to the decision which should be made. The arguments advanced in favor of acceptance were chiefly, first, that no reasonable hope could be entertained that the debt would ever be settled under the terms of the Boundary Act or of the act of Texas of January 31, 1852, because Texas would not accept the national government's construction of the Boundary Act and the creditors would not accept the scaled rates adopted in the Texas act; second, that Texas alone could not prescribe the terms on which the debt should be settled, because in consenting to the Boundary Act she thereby admitted the participation of the United States; and, third, that it was important that the "troublesome business should be settled upon terms satisfactory to the creditors."²

The arguments against acceptance were, first, that Texas had the right to transact her financial affairs in her own way; second, that acceptance would be in the interest of the "greedy foreign speculator"; and, third, that there would be a financial loss to the state to accept this act in lieu of the Boundary Act.³ The minority report of the house committee on public debt figured a total loss to the state by acceptance of \$6,082,244. This sum was arrived at by adding to the \$5,000,000 in bonds reserved in the United States Treasury the accumulated interest to January 1, 1855, of \$1,250,000; premiums of \$500,000 on the bonds; and Indian claims of \$3,800,000; and subtracting from

¹Message of Governor Pease, November 5, 1855.

²Message of Governor Pease, November 5, 1855. Majority Report of House Committee on Public Debt, December 1, 1855; House Journal, 6th Leg., p. 141. Galveston Weekly News, May 12, 1855, and January 15, 1856.

³Minority Report of the House Committee on Public Debt, December 1, 1855; House Journal, 6th Leg., p. 151. The Texas State Gazette, May 19, June 30, and November 10, 1855. See also the Galveston Weekly News, December 18, 1855, and June 8, 1856.

the total of \$11,550,000 the amount of the revenue debt scaled which according to their statement was \$4,467,756. This financial loss to the state was the principal basis of the opposition. The bill passed and became the act of February 1, 1856.¹ The bill passed the house by the very close vote of 42 to 38.

It was charged both in Congress and in the legislature of Texas that some members of each body had a financial interest in the passage of the bill. When the vote on the House bill was about to be taken in Congress, the rule of the House in regard to members voting upon a question in which they had a direct interest was ordered read.² In the legislature a committee was appointed to investigate the charges of improper conduct on the part of members of the legislature, but the report was that no facts brought before it justified the charge that bribery was employed. An attempt was thereupon made to have the committee itself investigated, but it failed.³

The \$7,750,000 prorated among the holders of the \$10,078,703 revenue debt gave each creditor about seventy-six and nine-tenths cents on the dollar. This settlement was very acceptable to the majority of the creditors. Settlement on the basis of the Texas ratings, which varied from twenty cents on the dollar to par, would have been a severe blow to those who had purchased the securities as a speculation. The securities were held mainly outside the state—in Delaware, Kentucky, Pennsylvania, and South Carolina.⁴ In 1850 in Philadelphia ten per cent interest notes were quoted at forty cents on the dollar and non-interest notes at from twenty-four and one-quarter cents to twenty-four and three-quarter cents. Eight per cent treasury bonds were quoted at thirty-five cents on the dollar, and a block of 45,000 of the bonds changed hands at that price.⁵

In the adjustment proposed by Texas in the act of 1852 there were three items of debt which were rated higher by \$123,217.56

¹Laws of 1856, p. 47.

²Congressional Globe, vol. 30, pt. 1, p. 618. See also the speech of Mr. Giddings, of Ohio; *ibid.*, p. 598.

³House Journal, 6th Leg., Adj. Sess., pp. 314, 506-522, 554. *Galveston Weekly News*, August 12, 1856.

⁴House Misc. Doc. No. 17, 33d Cong., 2nd Sess.

⁵The Texas State Gazette, April 13, 1850.

than they were settled for by the United States under the act of 1855. When the question of settlement was under consideration in Congress this difference was noted as an objection to the passage of the act of 1855, and to obviate it a provision was incorporated in the bill which authorized the Secretary of the Treasury to repay to Texas on the pro-rata basis out of the fund of \$7,750,000, the amount of the revenue debt which had been paid by the state. It was thought that the repayment would enable the state to pay to the creditors the \$123,217.56 which they would lose by acceptance of the act of 1855.¹ The state received in 1856-7 from the United States \$300,450.01 which was the amount that creditors had received from the state in payment of \$997,042.90 of revenue debt, that amount being at the rate of thirty cents on the dollar.² These creditors received from the United States out of the fund of \$7,750,000 the amount necessary to bring the settlement to the basis of seventy-six and nine-tenths cents on the dollar. But those creditors who had lost \$124,217.56 by the acceptance of the act of 1855 were never reimbursed by Texas. Certain holders of the non-revenue debt, however, were compensated by the state for the difference between the scaled and par amounts of their debts.³ The amount paid to them was \$57,768.82.⁴

The refusal of Texas to fulfill to the creditors who lost the \$123,217 which she had previously acknowledged was due them is an illustration of the hostile attitude of the state towards the holders of the revenue debt. The reasons for scaling were that the bonds and notes of the republic were issued at "an exceedingly dark and gloomy period," and so suffered a heavy discount, and that they had passed out of the hands of the original holders and had been purchased by outsiders as a speculation. These are the usual arguments for repudiation, and their adoption means the destruction of public credit. It was fortunate for Texas that after her struggle to effect repudiation she had no occasion soon to go into the general loan market.

¹Message of Governor Pease, November 2, 1857.

²Report of the Comptroller, 1856-7, p. 78.

³Laws of 1856, p. 64.

⁴Report of the Comptroller, 1856-7, p. 26.

The failure of Congress to appropriate an amount sufficient to pay in full the principal and interest of the revenue debt was an act of repudiation as discreditable as that which Texas would have committed, because the passage of the act of 1855 was a *de facto* acknowledgment of the responsibility felt for this debt. The amount appropriated to be pro-rated was unconnected with the \$5,000,000 of United States bonds reserved in the United States Treasury under the act of 1850 or with any other logical basis, and was merely the result of politics. The \$5,000,000 in bonds reserved in 1850 was thought at the time to be sufficient to pay all of the revenue debt, and the foundation of this belief was a document of the auditorial board which stated that the revenue debt amounted to \$4,500,000.¹ But this was only the amount of the bonds upon whose face the customs duties were pledged in name. Since the original act contemplated an amount which would discharge the revenue debt at par, the insufficient amount of the act of 1855 is without extenuation.

The stoppage of interest after July 1, 1850, was an act which had the marks of a breach of faith. It was an attempt to compel the creditors to take in payment land or something for which they had not contracted. As the greater part of the debt was not paid until 1856, about six years' interest was lost. Besides the scaling and the stoppage of the interest, a third characteristic of the debt treatment was the barring of claims. By the act of March 20, 1848, it was provided that all claims not presented before the second Monday in November, 1849, should be postponed.² The act of February 8, 1850, extended the time to the first Monday in September, 1851, and barred all claims not presented by that time. Later acts, however, extended the time to June 1, 1861.³ There are acceptable administrative reasons for a state ascertaining its debt, but when the object is rather to force unwilling creditors to submit to a scaling system the threat to bar claims is a dishonorable piece of legislation.⁴

Congress extended the time for presenting the revenue debt

¹Cong. Globe, vol. 28, pt. 3, p. 1846.

²Laws of 1848, p. 208.

³Laws of 1853, Called Sess., p. 54. Laws of 1854, p. 79. Laws of 1856, p. 23. Laws of 1858, p. 47. Laws of 1860, p. 60.

⁴Gouge, op. cit., p. 225.

to January 1, 1861, and at this date there remained a balance of \$101,113.27. In 1881, \$45,000 was paid out of this balance and the remainder was turned over to Texas.

By 1861 Texas had paid out of the proceeds of the \$5,000,000 of five per cent bonds received in 1850, \$1,558,055.31 for the debt of the republic. But as \$300,450.01 was revenue debt, the United States refunded that amount in 1856 and 1857, leaving \$1,257,605.30 as the net amount paid by Texas. The state furthermore received between 1846 and 1860 on account of debts due the republic \$289,110.86 in the audited paper and other liabilities of the republic, but \$847.70 of this was refunded by the United States in 1857, leaving the net amount of the debt discharged in this way at \$288,263.16. The amounts of payments on debt and of liabilities received were as follows:

	Payments.	Liabilities.
1847.....		\$101,045.60
1848.....		46,548.15
1849.....		34,961.24
1850.....		32,220.15
1851.....		7,750.74
1852.....	\$997,684.12	34,771.90
1853.....	116,460.52	9,042.16
1854.....	179,015.81	1,122.49
1855.....	44,412.36	1,047.47
1856.....	113,865.60	89.01
1857.....	8,946.44	324.90
1858.....	72,879.73	.....
1859.....	12,852.53	20,187.05
1860.....	11,938.20	.....
Total.....	\$1,558,055.31	\$289,110.86

After 1860 the amount paid was \$29,498.13, distributed as follows:

1861.....	\$8,520.00
1862.....	1,783.80
1863.....	20.83
1873.....	503.00
1881.....	3,000.00
1883.....	610.50
1885.....	60.00
1902.....	15,000.00
Total.....	29,498.13

The state itself incurred no bonded debt during the period 1846-1860, except in 1850. By the act of December 2, 1850, \$36,000 of five per cent state bonds were authorized to be issued and exchanged for an equal amount of specie in the school fund. The money obtained in this manner was used to defray current expenses, and the transaction was merely in anticipation of the receipt of the United States bonds under the Boundary Act. In 1851 United States bonds were exchanged for these bonds, and the latter were canceled.

The experience of the republic with debt appears to have impressed itself upon the framers of the first constitution of the state. It was proposed in the constitutional convention of 1845 that no loan should ever be made on the faith of the state, and though this radical proposition was rejected, the provision adopted was so restrictive as to indicate a strong anti-debt sentiment.¹ The provision was that "the aggregate amount of debt hereafter contracted by the legislature shall never exceed the sum of \$100,000 except in case of war, to repel invasion, or suppress insurrection. And in no case shall any amount be borrowed, except by a vote of two-thirds of both houses of the legislature."²

Owing first to the revenue accruing under the laws of the republic and later to the receipt of the \$5,000,000 of United States bonds, Texas during this first period of statehood was virtually free of any bonded debt, and, except in 1860, of any floating debt. This gave her a unique place among the states. By 1860 the United States bonds had been expended, and because of increased expenditures and insufficient taxation the general revenue account had warrants outstanding against it which it could not pay, and the state was indebted to the university fund for the \$100,000 of United States bonds borrowed from that fund in order to pay the increasingly heavy expenses of protecting the frontier.

¹Journal of the Convention, 1845, p. 185.

²Art. 7, sec. 33. This was also the limit imposed by the Louisiana Constitution of 1845.

SUMMARY.

The first period of statehood began and ended with the general treasury in financial difficulties, and but for the opportune receipt of the \$5,000,000 of United States bonds and the assumption of the payment of the revenue debt of the republic by the United States the treasury would probably have been in dire straits throughout the entire period. As it was, however, the receipt of the bonds enabled the state during eight years out of the fourteen of the period to pay a large and harassing debt, to endow the school fund generously, to construct public buildings, to meet the ordinary expenses of the government, to aid in the construction of railroads, and to administer the vast public domain not with a view to revenue but so as to encourage the growth of population and the material development of the state. The indemnity bonds were the key to the expenditure and revenue policies of the period, and their influence was felt in later periods. Inasmuch as the general treasury was greatly assisted prior to the receipt of the bonds by the revenue accruing under the laws of the Republic of Texas, the state government was supported throughout the first period of statehood not from taxation but from extraneous sources,—from windfalls. The result was that the people of the state did not become accustomed to taxation as a method of supporting the government, and a habit of depending upon other sources was thereby fostered. The beginnings of this habit had really been made during the period of the republic, because the republic lived on credit.

The purely agricultural character of the population and the frontier condition existing throughout the state were reflected not only in the general attitude towards education but also in the expenditure, revenue and debt policies. There was a tendency to confine expenditures to the support of the narrow protective functions of government; poll and occupation taxes which would fall on those engaged in business were popular, and the scaling of the debt was a widely approved policy.

PART IV.
THE CIVIL WAR, 1861-1865.¹

CHAPTER 1.

EXPENDITURES.

Texas was perhaps the most fortunate of the Confederate States during the war. Her territory was not a battleground and was free from devastating invasion. That part of her population which was not in the armies was free therefore to follow agriculture and other pursuits unmolested. Proximity to Mexico provided a comparatively safe outlet to a market for cotton and inlet for needed supplies of various kinds. The possession, too, of a large amount of disposable assets in the form of United States bonds obviated the need of an early resort to high taxation or an extensive use of the state's credit. Full advantage of these favoring circumstances of geography and assets could not, however, be taken. Transportation of products to the Mexican frontier proved to be slow, expensive and dangerous, while the United States bonds were only partially productive and served but to stay temporarily the evil day of financial disorder. In the end the financial story of Texas was the same for this period as that of the other southern states, though the details are less direful. It was one of trust funds violated, of debt accumulated, and of receipts and expenditures, swollen fictitiously by the depreciation of the paper money in which they were payable, mounting large to meet a growing desperate situation.

The only expenditures of 1861 to reveal a state of war were those for the regiment ordered raised by the Constitutional Convention. Total warrants drawn for these purposes amounted to \$79,870.33, of which only \$2,139.35 was for the regiment. The total net expenditures for the year were \$577,593.51. The total net expenditures for the war period proper, or from

¹The period of which this is a study extends from August 31, 1860, to June 8, 1865. The fiscal year ending August 31, 1861, has been included not because the finances reflect the war but on account of the legislation which made the initial financial provision for the struggle.

August 31, 1861, to June 8, 1865, were \$4,863,790.55. The portion of this that was of a military character is \$3,180,275.97. This amount does not represent fully, however, the expenditure attributable to the war. To obtain this amount there should be added to military expenditures those for hospital facilities and for the support of the needy families of Texas soldiers. In 1862 and 1863 warrants drawn on account of the hospital fund were \$104,493.58; for the soldiers' families, \$306,305.74; in 1864 and 1865 the amounts were \$107,446.02 and \$1,127,814.73 for the respective services,—or a total for the four years of \$1,646,060.07. There were refunds of \$41,950.77, leaving a net amount of \$1,604,109.30. The amount of these warrants that was paid cannot be stated. Since after May 28, 1864, civil appropriations and those for the support of soldiers' families were payable in treasury warrants, it may be assumed safely that the warrants drawn in 1862 and 1863 were paid and were therefore included in the comptroller's items of expenditures. Because of this element of conjecture, however, no attempt is made to state the absolute amount of expenditures incident to the war, but to rest content with the statement that more than three-fourths of the expenditures were attributable to it.

A part of the military expenditures was chargeable to the Confederate States government, and for such the state had a claim for refund. The reports do not indicate that there were any such refunds, but at the close of the war the Confederate government was indebted to the state in the sum of \$399,751.90 for ordnance, quartermaster, medical, and such stores.¹

At the beginning of the war all expenditures were made through the state comptroller and the state treasurer and were pursuant to specific legislative appropriations. In December, 1861, Judah P. Benjamin, Secretary of the Confederate Treasury, proposed to Governor Lubbock the exchange of the United States bonds then in the state treasury to the credit of the school fund for Confederate bonds.² The need of secrecy about such a transaction and the necessity also of some organization to superintend the defence of the state of a more continuous and adaptable character than the legislature led to the creation

¹Report of the Comptroller, 1863-1865, p. 14.

²MSS. Record of Military Board No. 101, p. 5.

on January 11, 1862, of the Military Board.¹ This board was known as the Old Board and was composed of the governor, the comptroller, and the treasurer. It was reorganized on April 12, 1864, in accordance with the act of December 16, 1863, to be composed of the governor and two appointees, and was known as the New Board.² The duty in general of the boards was to provide for the military defence of the state by securing supplies of arms, ordnance, ammunition and other stores.

The two boards drew from the treasury a total of \$1,651,621.85, divided as follows:³

In Confederate treasury notes.....	\$257,191.90
In specie	7,729.95
In state treasury warrants.....	25,000.00
In 8 per cent state bonds.....	595,000.00
In United States 5 per cent bonds.....	634,000.00
In coupons of United States bonds....	132,700.00

With these receipts as a basis, the boards carried on the varied and complex operations of purchasing, exporting, and selling cotton, of purchasing and importing supplies, of manufacturing arms and munitions, and of working the salt deposits in Van Zandt County.

The Old Board purchased, as far as can be ascertained, 5,736 bales of cotton, for which \$544,438.23 was paid, mostly in Confederate notes and 8 per cent state bonds. One hundred and twelve bales were burned or otherwise lost, and 5,551 sold for \$434,454.38. The New Board purchased 266 bales, 211 of which are accounted for by sale. The disposition of 128 bales of the total purchased by both boards is unaccounted for. Besides these direct operations in cotton, contracts were made with individuals to export their own cotton, but in the name of the board. These contracts promised some benefit to the state, as for example, the return of supplies which would be subject to purchase by the board. There is little to show, however, that

¹MSS. Record of Military Board No. 101, p. 14. Laws of 1862, pp. 40, 45.

²Laws of 1863, p. 26.

³Report of Pease and Palm, 1865, p. 1. This published account is condensed. For the full report see Executive Record No. 281.

any important amount of supplies was introduced as a result of these private contracts. The direct operations in cotton, though, resulted in the securing of such needed supplies as arms, cartridge boxes, powder flasks, powder, shoes, cotton cards, quinine, etc.

Most important of the funds turned over to the board were the United States 5 per cent bonds belonging to the school fund. On January 13, 1862, an agent of the Confederate States government received from the Military Board 100 of the bonds of the denomination of \$1,000 each. In accordance with the plan proposed in Secretary Benjamin's letter, a like amount of 8 per cent Confederate bonds were to be given in exchange. Secretary Benjamin shortly decided, however, that he had no authority to make this exchange, but that he would purchase of the state any arms or munitions of war which might be procured for the bonds. The failure at this time to negotiate the bonds for supplies terminated the whole matter between the state and the Confederate governments, and the bonds were returned to the Military Board.¹

Of the 634 bonds the Old Board received 364 with 3,311 interest coupons of \$25 each.—a total par value of \$546,775.00. These bonds and coupons were sent to Mexico and Europe for disposition, but fear of their repudiation resulted in but few of them being sold. Only 44 bonds and 310 coupons were sold by the Old Board. Their par value was \$49,750.00, and they were sold for \$38,022.50.

The New Board was responsible for 139 bonds and 633 coupons. Four of the bonds and 22 of the coupons were sold for \$4,550, and 135 bonds and 611 coupons were turned over to White and Chiles for cotton cards and medicines. The state did not receive the supplies contracted for, as, according to White and Chiles, they were destroyed in transit by disbanded troops.² Nineteen bonds and 80 coupons were turned over by Governor Murrah to an agent to be disposed of for medicine and cotton cards. There is no evidence of any such purchase, however, and the person to whom they were alleged to have

¹MSS. Report of Military Board, 1865; File Case No. 55.

²*Texas v. White*, 7 Wallace, 706 (1868). See also report of Pease and Palm, p. 4.

been given denied that he received them of the agent.¹ The remainder of the bonds to the number of 109 and 959 coupons were returned to the treasury upon the institution of the Provisional Government.

The Old Board erected a state foundry in Austin for the manufacture of cannon, also a factory for the making of percussion caps. The foundry cost, including expenses of operation, \$172,725.12; the cap factory, \$100,292.29. The cessation of the military demand for the kind of cannon made at the foundry, and the greater cost of public over private operation of the cap factory, resulted in the abandonment by the New Board of the operation by the state of these enterprises and in their lease to private individuals.²

The boards and their successors returned to the treasury a total of \$1,006,279.30. Most of the sum, \$543,958.28, was returned in 1864, and in Confederate notes. In 1865 unused United States bonds and coupons to the amount of \$129,975.00 were turned over to the Provisional Government, and during the period from October 13, 1865, to August 13, 1866, \$33,205.25 was returned in specie, United States currency, 8 per cent state bonds, and state treasury warrants. In 1876 a net amount of \$298,825.22 was recovered by the state on account of United States bonds and coupons of the par value of \$357,175.00 entrusted by the board in April, 1862, to Mr. J. M. Swisher for disposition and which were committed by him to English and German bankers for sale.³

The penitentiary was not a source of expense to the general treasury during this period. but was self-sustaining. The expenditures of the school fund were small, amounting to only \$114,544.26 in the four years 1862-1865 as against \$119,351.60 in 1861. The heaviest item of civil expenditures was the support of the indigent families of Texas soldiers.⁴ The county courts were the agencies of distribution, and beginning in May

¹Report of Pease and Palm, p. 4.

²MSS. Report of Military Board, March, 1865; File Case No. 55.

³The total of the returned amount has been deducted from military expenditures.

⁴Act of March 5, 1863; Laws of 1863, Called Sess., p. 12. Act of December 15, 1863; Laws of 1863, p. 21.

of 1863 and extending to the close of the war the assistance extended was nominally large but really small on account of the depreciated value of the notes and treasury warrants. After May, 1864, the medium of payment was treasury warrants, but these soon became practically worthless. The ordinary civil expenditures—or those for salaries, support of departments and state institutions, were on a moderate scale. Salaries remained unchanged throughout the war period, and their recipients were subject to the hardship of having to meet with the same nominal receipts prices that were steadily increasing by reason of scarcity of products and inflation of the currency.

CHAPTER 2.

RECEIPTS.

Texas entered upon the war period in an unsatisfactory financial condition. In 1860 the means for defending the frontier against Indian uprisings were largely provided by the use of the United States bonds belonging to the university fund. Despite the recommendations of the governor, no increased taxation was voted at this time. By January 19, 1861, the treasury deficit was \$817,827.00, and the revenue which was to come in before the end of the fiscal year was estimated to fall far short of the deficiency.¹ Each subsequent year saw deficiencies, and at the close of the war the amount of treasury warrants outstanding was \$2,068,997.90.

Net receipts in 1861 were \$509,788.64, and the total net receipts during the war period, 1862-1865, were \$8,161,928.58. About 40 per cent was from taxes, 8 per cent from sale of bonds, 38 per cent from the penitentiary, and the remainder, 14 per cent, from interest on the bonds in the school fund, the sale of land, land dues, the sale of public property, and fees. The proportion of receipts derived from the sale of bonds does not indicate, however, the extent to which the state used its credit, for it does not show the extent of indebtedness to special funds for assets transferred, or the floating debt.

By the close of the war a complex tax system had been developed consisting of property and poll taxes, salary and occupation taxes.

A. *The Property Tax.*

The ad valorem rate of the general property tax remained, against the counsel of the governor, at 12½ cents in 1861, with an additional 4 cents, collectible in specie, to meet the interest and provide a sinking fund for the \$1,000,000.00 loan authorized by the act of April 8, 1861.² In 1862 the rate for all purposes

¹Message of Governor Houston, February 5, 1861: House Journal, 8th Leg., Extra Sess., p. 17.

²Laws of 1861, p. 39.

was raised to 25 cents, and in 1863 to 50 cents, which was the rate also in 1864. At the above rates the taxes assessed were \$465,494.00 in 1861, \$700,609.00 in 1862, \$1,675,954.00 in 1863, \$1,790,959.00 in 1864,—a total of \$4,633,016.24. Assessed values showed a decrease in 1861 and 1862, but in 1863 they were \$335,190,700.00, and in 1864, \$358,191,886.00 as compared with \$294,315,659.00 in 1860. The number of acres of land, of negroes and other objects of assessment changed but little during these years, so that the increase in assessed values was due to higher valuations which were the result mainly of the inflated state of the currency.

The act of April 3, 1861, permitted non-residents of the counties to return land for taxation either in the county of their residence or in the county of its location, and the result was, as formerly, that a large amount escaped.¹ Unrendered land amounted to 34,659,321 acres in 1861, 29,320,425 in 1862, 47,854,029 in 1863, 34,970,258 in 1864, and 56,821,220 in 1865.² The lands sold to the state for taxes for the years 1861-1864 were 7,100,000 acres. Since from the beginning of statehood to 1861 the total sold was 17,594,229 acres, the forfeitures during the war were extraordinarily large. The total number of acres redeemed during the period 1846-1863 was only 1,065,600.³

B. The Poll Tax.

By the act of January 13, 1862, the poll tax was raised from 50 cents to \$1.00, and was assessed throughout the war on all male persons over 21 years of age.⁴ The assessments were as follows:

1861.....	\$28,521.00
1862.....	66,776.00
1863.....	53,798.00
1864.....	75,204.00
1865.....	56,529.00

¹Ibid., p. 33.

²Report of the Acting-Provisional Comptroller, 1866.

³Report of the Comptroller, 1868-9, pp. 110-111.

⁴Laws of 1862, p. 50.

C. Business Taxes.

An extensive system of occupation taxation was begun by the act of January 13 1862.¹ Some features of this act were the reimposition of a license charge upon doctors, lawyers, and dentists,—a practice which had been in abeyance since 1848; a tax of \$50 upon insurance companies,—which marks the beginning in this state of special taxes upon corporations; and the absence of any occupation taxes upon mercantile establishments other than the regular ad valorem rate upon goods purchased or received for sale. By the act of March 6, 1863,² lawyers and doctors were exempted from payment of a license charge, and in order to discourage the conversion of corn into liquor, a tax of \$1,000 was laid on each still. The still tax was repealed in December, 1863, but was reimposed in November, 1864, as were also the license taxes upon doctors and lawyers.³

A system of taxes on the sales of distilled spirits, fermented liquors and wines was adopted December 15, 1863.⁴ The taxes were payable monthly, and the rates were proportioned to the value per gallon. These taxes were described in the statutes and were popularly known as "income" taxes. By the act of December 16, 1863, those engaged in the sale of merchandise were subject to a tax of 50 cents on each \$100 proceeds of sales, and merchandise was subject to no other state taxation. This was known as the "merchandise tax." Assessors and collectors were required to call once in every three months and get returns of sales under oath. The act of November 15, 1864, replaced the graded liquor income tax by one that levied simply 5 per cent on gross sales, and modified and extended the taxation of gross receipts. The several occupations and professions taxed were classified and different fixed charges and percentage rates applied. Wholesale merchants were subject to a tax of \$300 and 1 per cent on gross receipts; retail merchants, druggists, and auctioneers, \$100 and 1 per cent. Those keeping a billiard hall or nine or ten pin alley, doing a storage business, and cotton com-

¹Ibid.

²Laws of 1863, Called Sess., p. 25.

³Act of December 16, 1863; Laws of 1863, p. 48. Act of November 15, 1864; Laws of 1864, Second Called Sess., p. 7.

⁴Laws of 1863, p. 16.

pressing and insurance companies, were subject to a tax of \$100 and 2 per cent on gross receipts. Railroad companies were subject to a tax of one-fourth of 1 per cent on their gross receipts; but no special provision was made for the determination of the amount of gross receipts or for the collection of the tax.

D. Income Taxation.

Under the amended Constitution of 1861, as under the original of 1845, the legislature had the power to lay an income tax. A beginning of income taxation was made in the act of January 13, 1862, which imposed on each person having a fixed annual salary, whether as a public officer or by private contract, 25 cents on each \$100 of such salary over \$500.¹ The tax was self assessed and no penalties were prescribed for failure of returns. This salary tax was not re-enacted in the act of December 16, 1863, which applied the principle of income or receipts taxation to the merchandise business, as it had been applied to the liquor business in the act of December 15, 1863. It was not until November 15, 1864, that the principle was extended, though it was yet so restricted as to make the tax an occupation tax rather than an income tax in the accepted sense of the term. Dentists and lawyers became subject to a tax of 2 per cent on the gross receipts from their professions, and presidents, directors, conductors, engineers, secretaries and clerks of railroad companies, and doctors to a tax of 1 per cent. Those engaged in agriculture and mechanical pursuits and those in general who enjoyed fixed incomes were not taxed on their income as such. The income tax as thus levied was therefore a partial one.

E. Receipts from Taxes.

The financial reports of this period do not classify the receipts from the several taxes, and for the general property tax and the poll tax one must rest content with the assessments to get an idea of their importance in the tax system. The amount received from license taxes in 1861 was \$43,097. No similar statistics are available for 1862. In 1863 the tax on sale of merchandise produced \$21,892.53; the tax on distilleries, \$34,383.30; and the taxes on other occupations, \$13,932.38. In 1864 the tax on sales

¹Laws of 1862, p. 50.

of merchandise brought in \$54,315.76; the liquor receipts tax, \$67,423.35; while the license tax on distillers produced \$43,863.28, and the taxes on other callings only \$13,392.62. More than 62 per cent of the taxes, other than ad valorem, in 1864 were thus obtained from the liquor business. The act of November, 1864, was very productive, the revenue in 1865 on account of it being \$308,582.39. The license tax on distillers and other callings contributed \$172,279, the merchandise and income tax, \$136,303.

The laws imposing the gross receipts taxes especially were not strictly drawn, and this fault and the disorganization of conditions generally resulted in evasion and in the imperfect assessment and collection of all taxes.¹ As to the tax on professions, which is the tax nearest to income taxation in the financial history of Texas, Governor Throckmorton later said that its yield was small and that it operated oppressively and unequally. He recommended a minimum exemption with a graduated but moderate rate on the remainder.²

In estimating the burden of taxation account must be taken of the taxes levied and collected by the Confederate States' government. In the administration of the Confederate taxes there was a chief collector for the state and assessors and collectors for the districts into which the state was divided for purposes of taxation. Texas was one of the two states, Florida being the other, which did not permit their tax officers to serve in the same capacity for the Confederate government. It was also one of the two states, Mississippi being the other, which did not assume their quota of the Confederate direct taxes.³ Confederate taxation was much heavier and more rigorously collected than was state taxation, and it amounted for the four years 1861-1864 to the huge sum of \$37,486,854.43. Only \$26,904.64 of this amount was collected in specie.⁴

¹Message of Governor Murrah, October 20, 1864; Executive Record No. 280.

²Message, August 18, 1866.

³Smith, *The History of the Confederate Treasury*, p. 25.

⁴Condensed account of G. J. Durham, collector of Confederate tax for Texas, in the *Weekly Southern Intelligencer*, August 11, 1865.

F. Public Lands.

There was little demand for the public lands during the period of the war, and the receipts from sales were almost entirely in the form of treasury warrants. The act of January 1, 1862, made two important amendments to the law of February 11, 1858. One of these lowered the price of the \$1.00 lands to fifty-five cents, and the other directed that the proceeds should accrue to the general revenue fund instead of to the common school fund.¹ No changes were made in the prices of the lands in the islands and in the railroad and other surveys. With the hope of getting more revenue and in order to offset the depreciation of the Confederate notes and state warrants the prices of all lands were changed in 1863. The fifty-five cent land was raised to \$2.00 and the price of other lands was advanced to \$5.00.² The acts of December 15, 1863, and November 7, 1864, authorized grants of land to any one erecting and putting into successful operation by March 1, 1865, machinery for the manufacture of iron, cotton, wool, firearms, nitre, sulphur, powder, salt, cotton or woolen cards, spinning jennies, paper, and oil. Grants were made on the basis of 320 acres for each \$1,000 worth of machinery.³

G. Character of Receipts.

The act of February 9, 1861, authorized the receipt of 10 per cent interest warrants in payment of land and the 2 per cent sinking fund of railroad bonds held by the school fund, and the act of January 11, 1862, made all treasury warrants receivable in payment of land.⁴ After January 11, 1862, treasury warrants and Confederate notes were receivable for taxes and all other public dues, except for the specie loan tax and for interest and principal of the railroad loans by the school fund.⁵

¹Laws of 1861-1862, p. 22.

²Laws of 1863, Extra Sess., 9th Leg., p. 11.

³Laws of 1863, 10th Leg., p. 22. Laws of 1864, 10th Leg., Second Called Sess., p. 3.

⁴Laws of 1861, p. 19. Laws of 1862, p. 22.

⁵Laws of 1862, p. 37. The Tri-Weekly Telegraph, December 2, 1861, noted that state treasury warrants passed at a discount of from 50 to 60 per cent, and it dissented from Governor Lubbock's recommenda-

The act of December 16, 1863, however, made treasury warrants, bonds and interest coupons of the state receivable in payment of railroad indebtedness to the school fund.¹

The great depreciation of Confederate notes led in the spring of 1864 to the law which provided that after the last day of June and until October 31, Confederate notes of the old issue of the denomination of \$100 should not be receivable for public dues except at a discount of one-third and that no Confederate notes bearing interest should be received after the last day of June.² The purpose of this legislation was to compel the funding of the old issue into Confederate bonds and to sustain the value of the new issue.

The specie needed to meet the interest and sinking fund requirements of the \$1,000,000 loan issue of 1861 was provided for by a special specie tax.³ This special tax began to fail in the early part of 1863, and for the year ending August 31, 1864, produced only \$1,352.77 in specie. By the act of March 3, 1863, it was provided that the tax might be paid in other funds, and the Military Board was authorized to obtain the specie required for interest.⁴ The history of this special tax well illustrates the disappearance of specie from general circulation. Receipts in 1862 on account of it were \$36,900.06, all of which was in specie; in 1863, \$123,608.09, of which \$57,549.18 was in specie; in 1864 \$152,369.94, of which \$1,352.77 was in specie. In 1865 the specie receipts were not derived from taxation, but were provided by the Military Board.

By the act of January 14, 1862, the disbursement of Confederate notes was restricted, except for about \$30,000, to the payment

¹Laws of 1863, p. 37. Act of May 28, 1864; Laws of 1864, Called Sess., p. 9. Act of November 15, 1864; Laws of 1864, Second Called Sess., p. 14.

²Act of May 27, 1864; Laws of 1864, Called Sess., p. 6.

³Laws of 1861, p. 39.

⁴Laws of 1863, Called Sess., p. 8.

tion that Confederate notes should be made receivable for public dues. This paper opposed also the funding of state warrants and urged that the best way of making them approximate par was to make them receivable for taxes and other public dues, and advised that to this end taxation should be increased and expenditures decreased. See issues of December 16, 1861, and October 26, 1864.

of military appropriations.¹ Other appropriations were payable in specie or in treasury warrants. Inasmuch, however, as the revenue was collected principally in notes and to a much larger amount than military expenditures could absorb, the act of March 6, 1863, provided that all appropriations should be payable in notes.²

In the spring of 1864 the Confederate currency was rated in specie at from 20 to 30 cents on the dollar.³ The state recognized by the act of May 27, 1864, a depreciation of $33\frac{1}{3}$ per cent, and by the act of May 28, 1864, made appropriations for the support of the civil departments of the government and for the indigent families of Texas soldiers payable in treasury warrants. These warrants, however, enjoyed no better credit than the notes had had, and were quoted in the fall of 1864 at 8 and 10 cents on the dollar.⁴ The constitutionality of the issue of treasury warrants which would perform some of the functions of money was questioned, but a majority of the senate judiciary committee held that they were not money and were not intended to circulate as money.⁵ This was also the opinion of the Supreme Court of the United States in 1899 in the case involving the validity of the payments of warrants to the school fund by the railroad companies.⁶

The bulk of receipts during the war period was in Confederate notes and treasury warrants. During the five years 1861-1865, \$948,711.34 of treasury warrants was received, distributed as follows:

1861.....	\$ 12,278.21
1862.....	27,654.15
1863.....	333,946.77
1864.....	393,544.57
1865.....	181,287.64

¹Laws of 1862, p. 52.

²Laws of 1863, Called Sess., p. 23. Message of Governor Lubbock, February 5, 1863.

³Message of Governor Murrah, May 11, 1864; Executive Record No. 280.

⁴Proclamation of Governor Murrah, September 13, 1864; Executive Record No. 280.

⁵The Tri-Weekly Telegraph, December 9, 1864.

⁶H. & T. C. R. R. Co. v. Texas, 177 U. S., 83 (1899).

No distinction was made in the financial reports between Confederate notes and specie until the year beginning September 1, 1862, which would indicate that by that date the disproportion in the amounts of notes had begun to complicate the operations of the treasury. During the three years 1863-1865, specie receipts amounted to only \$163,647.37, the most of which was credited to the special loan account and was secured for this account by the Military Board. The specie receipts were distributed as follows:

1863.....	\$72,149.97
1864.....	2,323.42
1865.....	89,173.98

Receipts of Confederate notes were \$957,137.96 in 1863; \$3,652,813.91 in 1864, and \$1,559,757.88 in 1865—a total of \$6,169,709.75. In the Fox Table¹ of currency values, the average value of \$1 in gold was \$5.88 in Confederate notes in 1863; \$19.89 in 1864. On the basis of this scale of depreciation the receipts in Confederate notes in 1863 were equivalent to \$162,778 in specie; the receipts in 1864 to \$183,650 in specie.

Besides the excessive amount of Confederate notes in circulation which receipts of the state and the Confederate government would indicate, there were state treasury warrants, city and county warrants, and the notes of individuals and corporations. The effect of this inflation of the circulating media, together with the scarcity of commodities, was an enormous rise in prices. As early as January, 1862, the currency became redundant, and before the end of the year public meetings were called in various parts of the state to consider the rise in prices. The depreciation of the currency was popularly ascribed to the perversity of "merchants" and "capitalists," and tariffs of prices and other coercive measures were suggested as remedies, but none was enacted.²

¹For Fox Table, see Appendix, table 18.

²The Tri-Weekly Telegraph, August 4, December 10, 1862; January 9, January 23, May 25, 1863.

CHAPTER 3.

PUBLIC DEBT.

From the beginning of statehood to 1860 Texas had no public debt other than that inherited from the Republic of Texas. The inadequacy of the revenue system and the increase in expenditures due to frontier defence led to a deficit in 1860, one consequence of which was a practical suspension of payment of what remained of the debt of the republic. There was paid on this debt, however, \$8,520 in 1861, \$1,783.80 in 1862, and \$20 in 1863. Another result of the deficit was the appearance of a floating debt. The act of February 14, 1860, authorized the issue of 10 per cent interest warrants, when there was not money in the treasury; and the act of March 20, 1861, authorized the issue of \$300,000, 10 year, 8 per cent bonds for the purpose of funding the warrants issued for the protection of the frontier from Indian and Mexican depredations.¹ This funding act was repealed January 11, 1862, after \$16,000 of warrants had been funded.

The important loan act during the war period was that of April 8, 1861, which authorized a loan of \$1,000,000, to bear 8 per cent interest and to run 16 years.² A specific tax of 4 cents on the \$100 to pay the interest and maintain a sinking fund was also authorized by the act, but it was not until January 11, 1862, that it was provided that this tax should be a specie tax.³ Under the provisions of this act \$917,000 of bonds were issued, \$294,000 of which were used in funding state warrants, \$28,000 in paying debts contracted under the authority of the Constitutional Convention of 1861, and \$595,000 were turned over to the Military Board. Seventeen thousand dollars of the bonds given to the Military Board were returned and \$1,000 mutilated, leaving a net

¹Laws of 1860, p. 115. Laws of 1861, p. 24. Act of January 11, 1862; Laws of 1862, p. 44.

²Laws of 1861, p. 39.

³Laws of 1862, p. 37.

amount outstanding of \$899,000. The net amount for which the Military Board was responsible was \$578,000.¹

The act of December 16, 1863, authorized the issue of \$2,000,000, 7 per cent bonds, payable 6 to 12 years after the close of the war, for the purchase of cotton.² Certificates for these bonds to the amount of \$195,190.29 were issued, but only 45 bonds were issued and delivered in redeeming certificates. This debt with interest amounted at the close of the war to \$211,130.83.³

The only other bonds authorized and issued were 6 per cent bonds to fund the treasury warrants received by the school fund for interest and principal payments by the railroads.⁴ Of these there was issued a total of \$320,367.13, all of which was held by the school fund.⁵

The 8 and 7 per cent bonds were disposed of to citizens of the state for cotton, currency, and military equipment and supplies. The cotton purchased was transported to Mexico and either exchanged for military supplies or sold and the proceeds used to purchase the supplies. After the organization of the Military Board it issued a stirring circular address to the people of the state calling upon them to take the bonds at par for their cotton.

¹The following is a statement of the disposition of the bonds held by the Military Board up to January 1, 1863, the only period for which an itemized statement is obtainable:

299 were sold for Confederate money.
 3 were sold for Nichols' guns.
 3 were sold for sulphur and saltpeter.
 20 were paid for the steamer Bayou City.
 21 were paid for alterations and repairs on the steamer and for removing obstructions from Buffalo Bayou and Galveston Bay.
 114 were used in the redemption of cotton certificates.
 Total, 460.

Par value	\$460,000.00
Premiums	16,422.60

Total value.....\$476,422.60

MSS; File Case No. 54, State Department.

²Laws of 1863, pp. 9, 29.

³Report of Pease and Palm, p. 8.

⁴Act of December 16, 1863; Laws of 1863, p. 37. Act of November 15, 1864; Laws of 1864, Second Called Sess., p. 14.

⁵Report of the Comptroller, 1863-1865, p. 7.

The cotton growing part of the state was divided into districts and agents' were appointed in each to take subscription to the loan in either cotton or money. Upon the purchase of any cotton, or the sale of bonds for money, the agent took a bill of sale and delivery and executed a receipt or certificate to the seller, which certificate entitled the seller to bonds of even date.¹

The interest on the 7 and 8 per cent bonds was payable in specie. Specie interest payments were \$6,009.61 in 1862, \$46,586.11 in 1863, \$40,502.90 in 1864, \$72,696.61 in 1865. These amounts were paid, though apparently somewhat irregularly, but despite them the value of the bonds fell in 1864 to less than 25 cents on the dollar.² The provision in the 8 per cent loan act for a sinking fund was not observed in respect to a specie fund.

Treasury warrants outstanding at the close of the war amounted to \$2,068,997.90, about \$180,000 of which were 10 per cent interest warrants. In 1863 and 1864 these had a value in specie of 8 and 10 cents on the dollar.³ There were at all times in 1863, 1864, and 1865 enough Confederate notes in the treasury to redeem all the outstanding warrants, but the holders held them back with the expectation of ultimately getting something better in payment.⁴

The state was indebted to special trust funds to the amount of \$1,455,913.86 on account of United States bonds and specie used and for evidences of state indebtedness received in the collection of revenue. The school fund was due \$1,137,406.05, the university fund, \$283,514.22, and other special funds, \$34,892.49.⁵

The amount due soldiers and for supplies was estimated at \$3,150,000; the unpaid debt of the republic at \$110,613.23; mis-

¹MSS. Record of Military Board, No. 101. On November 26, 1862, the board opened bids for \$100,000 of the 8 per cent bonds. There were bids for \$136,000 or 136 bonds. For 23 bonds a premium of 12 per cent was offered; for 25, 10 per cent; and for 6, 12½ per cent. The bids for these 54 bonds were in Confederate money and amounted to \$59,995. On the basis of the Fox Table of \$1 in gold for \$3.75 Confederate notes, the specie value of the bids was equivalent to \$15,998.66.

²Message of Governor Murrah, October 20, 1864; Executive Record, No. 280.

³Message of Governor Murrah, October 20, 1864.

⁴MSS. Report of Pease and Palm; Executive Record No. 281, p. 118.

⁵MSS. Report of Pease and Palm; Executive Record No. 281, p. 116.

cellaneous debt at \$199,176.¹ The total debt was \$8,110,832.58. Deducting the debt of the republic, there remains \$8,000,219.35 which represents the debt incurred from 1860 to the close of the war.

¹Ibid., pp. 118-119.

CHAPTER 4.

SCHOOL AND UNIVERSITY FUNDS.

The amount due the school fund at the close of the war was \$1,137,406.65. \$766,700 of this was for United States bonds and interest coupons transferred to the Military Board in August and November of 1862; \$331,604.84 for state treasury warrants received; \$26,927 for specie used, and \$12,173.93 for interest on state bonds.

Receipts of the school fund from taxes, land sales, and interest on securities amounted during the four years 1862-1865 to \$643,525.81, while expenditures, exclusive of investments, amounted to only \$114,544.26. In 1861 loans were made to railroad companies under the act of 1856 to the amount of \$190,500, and in 1862 to the amount of \$150,000. These loans brought the total loaned to \$1,816,500.

The railroad companies made no interest payments in specie during this period, but in accordance with the acts of December 16, 1863, and November 15, 1864, they paid in state treasury warrants a total of \$320,367.13 for interest and principal of bonds. The state funded the warrants in 6 per cent bonds, and the latter remained of doubtful validity until 1883 when they were paid. The legality of the payments of the companies in warrants was subsequently contested on the ground (1) that the warrants were issued for the purpose of being circulated as money and so were in violation of the state constitution; (2) that they were bills of credit emitted by the state and were therefore in violation of the Constitution of the United States; and (3) that the acts under which they were issued and paid were in aid of the Rebellion and were therefore void. The decision of the Supreme Court of the United States was against the state on all three points.¹

In 1876 \$297,758.22, out of a total of \$357,175 in United States bonds and coupons originally transferred, was recovered by the state and returned to the school fund.

¹H. & T. C. R. R. Co. v. Texas, 177 U. S., 66-103 (1899).

The indebtedness to the university fund at the close of the war was \$283,514.22. This was for United States bonds to the amount of \$100,000 and specie from interest and land sales transferred to state revenue account in 1860-1862, and for treasury warrants and Confederate notes received in payment of land sales. Receipts of this fund from land sales during the four years 1862-1865 amounted to \$134,183.39. There were no disbursements other than transfers. In 1866 5 per cent state bonds to the amount of \$134,472.26 were placed to the credit of the fund to replace the United States bonds and interest used, the balance of the debt not being recognized. The bonds thus credited remained of doubtful validity until 1883, when they were paid with accumulated interest; \$10,300.41 of this old debt of war times was also validated and paid in 1883, but without interest.

The effect of the war upon the school and university funds was to strip them of their sources of revenue, and as a result of conditions brought about by the war, education in Texas was set back by more than two decades.

CHAPTER 5.

CONDITION OF THE TREASURY AT THE CLOSE OF THE WAR.

On June 8, 1865, the total cash balances on hand amounted to \$3,368,510.07. This was made up of \$2,908,038.34 in Confederate notes, \$445,074.37 in state paper, and \$15,397.36 in specie. Only \$362,548.11 of the Confederate notes were actually in the treasury, the remainder, \$2,535,490.23, were old issues, and had been turned over to the Confederate States' depository to be exchanged for new issues. In addition to the above balance there was in the hands of the Military Board \$129,975 in United States bonds and interest coupons. This latter and the specie were the only part of the balance that was of value.

The finances of the war period which secession inaugurated ends June 8, 1865. At this date the pen which traced the ledgers of the fiscal department of the state government stops off short, and until October 13, 1865, when the work of accounting is again resumed in a new handwriting, a gap of blank pages follows—mute witnesses of the end of a disastrous struggle and of the temporary dissolution of state government. Social disorder attended the break-up of the Confederacy and on the night of June 11, 1865, the state treasury was broken into and looted. There was little of value in it that was negotiable, so that the loss, except for something less than \$5,000 in specie, was not serious.

PART V.

THE RECONSTRUCTION, 1865-1874.

CHAPTER 1.

INTRODUCTION.

Although General Lee surrendered early in April, 1865, the break-up of the Confederacy did not occur in Texas until the end of May. Disorganization of all authority followed, and in the general confusion Confederate and state property was appropriated by disbanded soldiers and even the state treasury at Austin was looted. The loss of property, however, was small and the disorder little when viewed against the background of bitter disappointment and uncertainty of the future which the people of the state felt on account of the downfall of the Confederacy.

The arrival at Galveston on June 19, 1865, of General Gordon Granger initiated the first provisional government—a mongrel of civil and military rule, but predominantly military. A. J. Hamilton, who had been appointed on June 17 provisional governor of Texas by President Johnson arrived at Galveston on July 21, and proceeded soon to Austin to take office. After some delay a registration of those citizens of the state who would take the oath of amnesty was made and an election of delegates to a constitutional convention was ordered. The convention met in Austin on February 7, 1866, and was in session eight weeks. In the election that followed the conservative ticket, or that endorsing President Johnson's policy for the restoration of the state governments, headed by J. W. Throckmorton, was successful, and the amendments to the constitution were adopted. The newly elected government took possession on August 13, 1866, and on August 20 President Johnson declared by proclamation that the insurrection in Texas was at an end. The restoration of civil government to a normal state and the amelioration of general conditions were terminated, however, by the reversal by Congress of President Johnson's policy. Under the provisions of the so-called Reconstruction Acts, passed in March and July of 1867, Texas became a part of the Fifth Military District, and

went again under a provisional form of government which lasted from August 8, 1867, to January, 1870. Again, also, the process of emergence from the provisional form of government was gone through with, and another constitution was adopted and another election of state officials was held. E. J. Davis was the new governor elected, and his administration, which is popularly known as the period of radical rule, lasted three full years. It was undermined by the election of a democratic legislature—the famous Thirteenth—in November, 1872, and fell and was swept away by the election in December, 1873, and the inauguration on January 15, 1874, of Richard Coke as governor.

During the years of the Civil War and the Reconstruction, and especially during the decade 1860-1870, the absolute growth in population and material wealth was the smallest of any decade in the history of the state. Population increased from 604,215 in 1860 to 818,579 in 1870. This was a percentage increase of 35.5 as compared with 184.2 during the decade 1850-1860. The United States Census of 1860 placed the number of slaves at 182,566 or 30.2 per cent of the total population. This vast mass of propertyless, ignorant blacks was added to the citizenship of the state as a result of the war, and by 1870 the negro element of the population numbered 253,475, or 30.9 per cent of the total population. Nothing was done up to 1870 to improve the economic or intellectual status of this class, and nothing could be done for either whites or negroes because of the misgovernment at Washington and the prostrate financial condition of the state.

The amount of illiteracy and the conditions as to education pointed to the greatest task of the state,—namely, the education of its citizens. Thirty-three per cent of the population ten years of age and over could not read, and there were only 548 schools in 1870, with 23,076 pupils, 706 teachers, and a total income of \$414,800.¹

The population of the state was almost wholly employed in agriculture, and this added to the difficulties of the problem of education. Out of the total of the population ten years and over engaged in all occupations 166,753, or 70 per cent, were engaged

¹Ninth Census of the United States. 1870. Vol. Population, p. 450.

in agriculture.¹ The population of the state was thinly spread out, the average density being 3.1 persons to the square mile.

Agriculture showed a marked decline during the decade 1860-1870. Evidences of this decline were the decrease in the value of the farms from \$88,101,320 to \$60,149,950, or 45.4 per cent, the decrease in the value of farming implements from \$6,259,452 to \$3,396,793, or 56.6 per cent, and a change in the acreage of land in farms from 25,343.028 in 1860 to 18,396.523 in 1870, or 27.4 per cent. The per cent which farm acreage was of the total area of the state declined from 15.1 in 1860 to 11.0 in 1870. The per cent of land in farms which was improved increased, however, from 10.4 to 16.1. The production of cotton was 431,463 bales in 1859 and 350,628 in 1869. The price of cotton fluctuated violently during the period. In 1865, the price was 43.2 cents per pound and in 1870 it was 17 cents.²

Manufacturing, railroad construction, and banking increased during the period. The railroad mileage grew from 307 in 1860 to 711 in 1870, or 131 per cent. Manufacturing establishments numbered 983 in 1860 with a value of products of \$6,577,202, and in 1870 they numbered 2,399 with products valued at \$11,517,302.³ As to banking, there was only one chartered bank in Texas in 1860. It was located in Galveston and had a capital of about \$100,000.⁴ Four national banks were established in 1866, and this number remained unchanged until 1870. Two of the national banks were located in Galveston, one was in Houston and one was in San Antonio. Their capital and surplus amounted to \$575,000; their deposits to \$617,000, and their loans to \$532,000.⁵ The Constitution of 1869 abandoned the policy of prohibiting state banks which had been followed

¹Ninth Census of the United States. 1870. Vol. Industry and Wealth, p. 450.

²The average prices in cents per pound of upland cotton were in other years as follows: 31.6 in 1866, 24.9 in 1867, 29 in 1868, and 24 in 1869.

³The census included under the term manufacturing establishment purely local or neighborhood shops.

⁴Eighth Census of the United States. 1860. Vol. Mortality and Miscellaneous Statistics, p. 29.

⁵Report of the Comptroller of the Currency, 1888, pt. 1, p. 318.

since 1846, and a number of such banks were organized.¹ For the state as a whole the supply of credit facilities during this period was in the hands of merchants and private lenders, and this condition of affairs continued until the middle of the eighties or until national banks came to be more widely established.

Although the Reconstruction as a political condition ended at the close of 1873, and though the financial policy came under the control of new hands at the beginning of that year, the finances, industry and commerce of the state were slow in recovering from the effects of the war and radical rule, and it was 1880 before a normal condition was again reached. The period treated in this study, however, extends from the close of the war through August 31, 1874.

¹The state banks were required by law to report annually to the secretary of state, but the law was not obeyed. The taxation of the capital and deposits of such banks under the internal revenue laws of the United States made it necessary for the banks to report to the commissioner of internal revenue, but the number of reporting institutions was not given by the commissioner until 1876. The number of state banks and savings banks reported in 1876 was 101, with a combined capital of \$3,302,388, and deposits of \$4,713,759; Report of the Secretary of the Treasury (U. S.), 1876, p. 186.

CHAPTER 2.

EXPENDITURES.

The character and amount of expenditures are exhibited in the appendix. The table there presented shows only the amount of warrants drawn during each fiscal year; and, owing to a continued treasury deficit, in only one year, 1868, is the amount of cash paid out of the treasury the same as the amount of warrants drawn. However, as the warrants drawn were demands upon the treasury which were eventually met, the table represents the policy pursued with respect to expenditures.

The cost of administering the state government was fluctuating, but on the whole showed an upward tendency until 1870, and after that year took a violent rise. The multiplication of state employees and especially the increase in salaries and contingent expenses worked to swell the cost of running the several departments. The Constitution of 1866 extended the term of office of the governor to four years and provided for a salary of \$4,000, which was an increase of \$1,000 over the former figure. This was further increased in 1870 to \$5,000. The secretary of state, the treasurer, and the comptroller each received annual salaries of \$1,800, and the commissioner of the general land office \$2,000, until 1866, when all were increased to \$2,500, and in 1870 they were further increased to \$3,000. Chief clerks after 1870 received \$1,400 to \$1,600. By the Constitution of 1866 the number of judges of the supreme court was enlarged from three to five, and the minimum salary raised from \$3,000 to \$4,500. The minimum salary of district judges also was raised from \$2,250 to \$3,500. These substantial increases in salaries were ill-timed and were beyond the ability of the taxpaying public. The claim for an increase on account of high prices was stronger during the war, but neither the general price level nor the opportunities in private life at this time warranted the increases provided.

Occasions of large annual expenditures were the sessions of the legislature, and to this cost of law-making may be added that on account of the constitutional conventions. Legislative ses-

sions were frequent and long and were taken up largely with private legislation which could have been avoided to a great extent by a general corporation law.¹ The legislature, however, was not extravagant in the matter of outlays on itself either to the same degree or in the same fashion that characterized other southern legislatures of this period. Expensive chamber furniture and other furnishings, and champagne and cigars to enable committees to endure better their arduous labor do not shame Texas legislative annals as they do those of states which, like South Carolina, were ridden by carpet-baggers. There were, though, improper expenditures which were cloaked under the blanket appropriation for contingent expenses; pet partisan newspapers were generously subscribed for; and the mileage and per diem provided were unprecedentedly liberal.²

While the state departments and the legislature explain a part of the growth of expenditures after 1870, the bulk of the growth is ascribable to other objects. The cost of the judiciary more than doubled, but the organization of new courts and the activity of the state's prosecuting agents account largely for this. The increase in fee payments to sheriffs and prosecuting attorneys was marked, but the fee system was no more abused at this time than under later administrations. After 1871 disbursements from the available school fund took a leading place among the state's expenditures. The use of the assets of the school fund during the war and the failure, due chiefly to inability, to make restoration or reparation to that fund resulted in a suspension of its functions until their revival by the act of 1871. There was expended out of this fund during 1872, 1873, and 1874, \$1,489,675, as against \$37,885 from 1865 through 1871. Beginning in 1871 the protection of the frontier settlements against marauding Indians and Mexicans called for large annual outlays. The need of protection became manifest immediately after the war, and failure of the Federal government to extend it forced

¹Message of Governor Davis, January 10, 1871. The San Antonio Daily Herald, April 20, May 8, and June 11, 1873. Proceedings of Taxpayers' Convention, Austin, 1871, p. 21.

²Reconstruction Journal, 1868, p. 47. The San Antonio Daily Herald, June 11, December 22 and 29, 1868. Flake's Daily Bulletin, August 27, 1868. Message of Governor Davis, January 14, 1873.

the state to perform the duty. Despite expenditures during the four years, 1871-1874, of \$524,963, the protection extended was held to be inadequate.¹ The expenditures of this account were subsequently refunded to the state by the national government, but not during the period of the Reconstruction. In 1888, \$922,541.52 was refunded; in 1891, \$148,615.97. These amounts were refunded under the act of Congress of June 27, 1882, and reimbursed the state for all expenditures of this character between 1866 and 1882. Expenditures for the asylums, especially for the insane, increased during this period, but no exception can be taken to the better provision for the unfortunate wards of the state. There appears to have been some jobbery, however, in connection with the purchase of supplies for the asylums and the repairs of public buildings.² Except in 1869, when a large amount was expended for support, the penitentiary was not an expensive institution. The expediency of leasing it and the labor of the convicts was suggested in 1868 and was carried out in 1871. Thereafter the only expense of the state in connection with it was for the transportation of prisoners.

Perhaps the most obnoxious of the measures of the E. J. Davis administration was that providing for a system of state police. Warrants drawn on account of the state police and the state militia,—almost wholly, however, for the police,—amounted during the period 1871-1874 to \$688,091, or 15 per cent of the total of warrants drawn on the general revenue fund. The personnel of the police body, their abuse of authority, and the fact that they performed functions which belonged to the local governments, led to the abolition of the system by the Democratic legislature in 1873.³

Texas narrowly escaped during this period the subsidizing of railroads with bonds,—a policy that characterized a number of southern Reconstruction governments and which resulted in grievous financial burdens to the states. The constitution of 1866 empowered the legislature to guarantee the bonds of railroad

¹The San Antonio Daily Herald, September 6, 1871. Senate Journal, 12th Leg., Adj. Sess., p. 206.

²Report of Committee on Asylums; House Journal, 14th Leg., p. 14. Report of Committee on Public Buildings; *ibid.*, p. 161.

³Ramsdell, *Reconstruction in Texas*, pp. 302, 312.

companies to any amount not exceeding the sum of \$15,000 per mile. No resort was made to this provision because the Constitution of 1866 was short lived, and the provision was believed to be in conflict with section 33 of the constitution, which prohibited the legislature from contracting a debt to exceed \$100,000, except in case of war, to repel invasion, or suppress insurrection.¹ The Constitution of 1869 shut out land grants to any but actual settlers, but permitted bond subsidies to internal improvements. By the act of August 5, 1870, incorporating the International Railroad Company, a subsidy in 8 per cent, thirty-year bonds of \$10,000 a mile, was granted, and an ad valorem tax upon all taxable property sufficient to pay the interest and contribute to a 2 per cent sinking fund was authorized. The state pledged itself in this act that its bond subsidies to works of internal improvement should not exceed \$12,000,000.² An act carrying a subsidy of \$6,000,000 in 8 per cent, thirty-year bonds to a road that should cross the state from east to west and reach the Pacific Ocean was opposed by the governor, and it was only when the bill had passed the legislature after two vetoes that he withdrew his opposition.³ A bill that proposed to subsidize the East Line and Red River Railroad Company with 7 per cent bonds to the amount of \$30,000 a mile was effectively vetoed.⁴ It was provided in the act chartering and subsidizing the Pacific road that when the state should have power under the constitution to grant lands in aid of internal improvements, a land grant should be substituted for the bond subsidy, and this substitution was made in 1873, following the adoption of an amendment to the constitution authorizing land donations. Bonds of the subsidy to the International road were signed by the governor, but when presented to the comptroller to be countersigned and registered, that officer refused. The company thereupon brought suit to compel the signature of the comptroller, but the supreme court of the state reversed the judgment of the district court awarding a peremptory mandamus and dismissed the case

¹Report of Committee on Judiciary; House Journal, 11th Leg., p. 733.

²Act of August 5, 1870, section 10; Special Laws of 1870, Called Sess., p. 109.

³House Journal, 12th Leg., p. 1688.

⁴House Journal, 12th Leg., p. 881.

on the ground that the judicial department of the government had no authority to interfere with the executive department in the performance of duties not ministerial in character.¹ Unblushing bribery was charged in connection with the passage of this International subsidy, and though the jury of a district court found the allegation of fraud to be untrue, the charges were so rife and upon such high authority as to give them credence.² It was a cause of wonder at the time that members of the Twelfth Legislature whose income was their per diem should at the end of the session be able to buy fine horses and furniture and to travel north.³

Except for the increase in salaries under the Throckmorton government and the wastefulness of the constitutional convention of 1868, the expenditures to 1870 were not excessive. This is not true, however, for the period of the Reconstruction thereafter. Expenditures then were beyond the ability of the state, and the best evidence thereof is that, despite heavy taxation, bonds were sold to pay current expenses and a large floating debt was accumulated. The Twelfth Legislature exhibited such a degree of profligacy and open disregard of the state's economic condition that it is notorious. Matters might have been worse, though, and that they were not so was due mainly to the integrity of the governor in the administration of the public finances.⁴

¹Bledsoe v. the International Railroad Company, 40 Tex., 537 (1874).

²Bledsoe v. the International Railroad Company, 40 Tex., 537. Message of Governor Coke, January 12, 1875. The San Antonio Daily Herald, October 4 and 20, and November 24, 1870. The Houston Daily Telegraph, February 23 and October 19, 1871.

³Clippings from the State Gazette and Flake's Bulletin in the San Antonio Daily Herald, September 27 and October 20, 1870.

⁴Ramsdell, *Reconstruction in Texas*, p. 318.

CHAPTER 3.

RECEIPTS.

A. *The Property Tax.*

The chief source of receipts during this period was taxation, and the main tax was, as in previous periods, the ad valorem tax upon real and personal property. The work of assessment and collection was performed until 1870 by an assessor and collector, but thereafter assessment was by the justices of the peace, and collection by the sheriff of each county. Under the provisional governments assessment and collection were subject to special difficulties. The war had disorganized the machinery of administration, and in many of the counties it was impossible, owing to the opposition of the people to military authority, to secure an assessor and collector. In 1868, for example, thirty-nine counties out of one hundred and twenty-five had vacancies in the office. It was not infrequent, too, that those who qualified were inexperienced, inefficient, or corrupt.¹ Despite these difficulties, however, receipts from taxes before 1870 were, proportionately to the rate and the total assessments, more satisfactory than after 1870. This better showing was due, in the first place, to the more rigid collection under the military authorities, and, in the second place, to less burdensome rates.² A number of circumstances contributed to the disarrangement of the tax system during this period. With the emancipation of the slaves, who were assessed for taxation in 1865 at \$137,191,886, taxable property to that amount was wiped out. Slaves in 1865 constituted 38 per cent of the taxable property. The escape and undervaluation of real estate was favored by the provision of the laws which permitted its rendition either in the county of its situs or in the county of residence of the owner or agent. Furthermore, because of the

¹Report of the Comptroller, 1868-9, p. 4. In 1870 defaulting and delinquent officers were due the state \$350,000; *ibid.*, 1870, p. 20.

²The United States Census of 1870 gave as the assessed value of property \$149,732,929 and as the true value \$159,052,542. The per cent of assessed to the true value was 87, which is a high proportion. Vol. Industry and Wealth, p. 10.

seeming impossibility for assessors and collectors to comply strictly with all the details of the laws regarding sale for taxes, the courts would not sustain titles to property purchased at tax sales. For this reason taxpayers no longer feared forced sales.¹ Further, the tax year ended December 1, which resulted in the collection of taxes during the summer or fall, or the seasons of greatest scarcity of money for the farmers.² Back taxes piled up as a consequence of these circumstances, and strenuous efforts were made to collect them. The act of November 12, 1866, required the compilation of a list of all lands on which taxes were due from 1849 to 1866, and provided for their sale. In 1865 and 1866 791,000 acres, and in 1867 and 1868 the unprecedented number of 7,800,000 acres, were sold to the state for unpaid taxes.³ This act was later nullified, and the attempt was again made in 1870 to collect back taxes, but failed because of the governor's veto of the appropriation to carry it out.⁴ Subsequent attempts were of the nature of commutation for all unpaid amounts by payment of three or five times the amount of the current taxes. The Constitution of 1869 was the first Texas constitution to provide that the homestead should not be sold for taxes except for taxes due thereon.⁵

The feature of taxation under radical rule which more than any other explains the ill-working of the tax system is that state and local taxes together constituted too great a burden. In 1865 the state ad valorem rate was 12½ cents on the \$100 valuation; in 1866 and 1867, 20 cents; in 1868, 1869, and 1870, 15 cents; in 1871, 1872, 1873, and 1874, 50 cents. In 1868 there was, in addition to the regular tax of 15 cents, a special tax of 20 cents to pay the expenses of the constitutional convention. In 1868 the state and county ad valorem taxes amounted in Bexar County, for example, to \$1.10 on the \$100 valuation, and in 1870, to \$1.12½. Besides these there were state and county

¹Report of the Acting-Provisional Comptroller, 1866. Report of the Comptroller, 1868-9, p. 7. Message of Governor Coke, April 19, 1876.

²Report of the Comptroller, 1874, p. 3.

³Report of the Comptroller, 1868-9, p. 110.

⁴Message of Governor Davis, January 10, 1871.

⁵Art. 12, sec. 15.

income, salary, poll, and occupation taxes, and city taxes.¹ In 1871 combined state and county ad valorem rates amounted at a conservative estimate to \$2.175, and there were besides the state and county poll and occupation taxes, and city taxes.² In 1869 collected state and local taxes of all kinds aggregated \$1,129,577; in 1872 assessed state and county ad valorem and occupation taxes and local taxes for public schools amounted to \$4,584,275.³ All of our statistics indicate an increase in taxation that was enormous. Assuming 10 per cent as a low average rate of interest on loanable capital, state and county taxes of \$2.17 would be equivalent to an income tax of 21 per cent. No government would dare to levy an income tax at such a figure, and it should be no surprise that the imposition of this rate indirectly through the property tax occasioned bitter complaint and led to the undervaluation and escape of property. Conventions of taxpayers were held in a number of counties, and as a culminating protest a convention of the taxpayers of the state was held in Austin on September 22, 23 and 25, 1871, with two hundred and seventeen delegates present representing ninety-four counties.⁴ This convention was called by the radicals, "a body of sulks and soreheads," but these epithets ill apply to ex-governors Throckmorton, Pease and Hamilton and to the other leading men who were delegates.⁵

In estimating the weight of taxation upon the people of the state during this period certain Federal taxes need to be considered. The sum of the direct tax of 1861 apportioned to Texas was \$355,106.66. By an ordinance of the convention of 1866, the state assumed the payment of this tax, and the comp-

¹The San Antonio Daily Herald, April 9, 1868, November 18, 22, 26, and December 22, 1870.

²Proceedings of the Taxpayers' Convention, Austin, 1871, p. 22. See also Clegg v. the State, 42 Tex., 605 (1875).

³In 1869 state taxes were \$589,363, county taxes, \$312,335, and town, city and other taxes, \$227,879; Census of 1870. Vol. Industry and Wealth, p. 58. Message of Governor Davis, January 14, 1873.

⁴Proceedings of the Taxpayers' Convention, Austin, 1871, pp. 5-8. The Houston Daily Telegraph, August 13, 25, September 5, 8, 19, 20, 1871. The San Antonio Daily Herald, September 26 and 27, 1871. The Austin Democratic Statesman, September 23 and 26, 1871.

⁵The Austin Daily Journal, September 21, 1871, *et passim*.

troller was authorized to effect settlement if possible by setting off against the amount due the amount owed Texas by the national government on account of advances by the state for frontier defence, unpaid bonds of the United States held by the state, etc.¹ Nothing came of this, and by an act of November 13, 1866, the governor was authorized to have assessed and collected upon all real property a tax of 28 cents on each \$100 of value of such property rendered for the year 1861, and any deficiency was to be made up from the state revenue account.² Nothing came of this measure either, however, and all that was collected of the tax was that effected by the United States internal revenue agents in 1865 and 1866. Up to the time of the suspension of collection by the act of Congress of July 28, 1866, there was credited to Texas \$180,841.51, leaving the amount uncollected \$174,265.16.³

More burdensome than the direct tax was the Federal tax upon cotton which was levied from 1864 to 1867. It was 2 and 3 cents a pound and its collection was rigidly enforced. The total paid by Texas was \$5,502,401.⁴

B. Income and Salary Taxes.

The income tax levied during the war was not an income tax in the strict sense of the term, but was really an occupation tax. Governor Throckmorton recommended certain changes in it, the chief ones being that the rates should be graduated and that there should be an exemption.⁵ His suggestions were carried out in the act of November 6, 1866.⁶ This act provided

¹Laws of 1866, p. 37. .

²Laws of 1866, p. 257.

³House Executive Document, No. 159, Forty-ninth Congress, Second Session. Dunbar, "The Direct Tax of 1861," in *Quarterly Journal of Economics*, vol. 3, pp. 450, 453. The Southern Intelligencer, May 10 and June 7, 1866. By the act of Congress of March 2, 1891, refunding the direct tax, Texas received \$180,886.72. This amount was held in trust for, and distributed to, those who paid or their heirs, until March 2, 1897, when the balance of \$66,197.89 reverted to the general treasury of the state.

⁴51st Cong. First Sess., House Report, No. 683.

⁵House Journal, 11th Leg., Reg. Sess., p. 79.

⁶Laws of 1866, p. 91.

that there should "be levied on and collected from every person, firm, corporation, or association, doing business within this state, at any time during the year 1866, and in every year thereafter, an annual income tax, as follows: on the first \$1000 of net taxable income, a tax of 1 per cent; on the second, a tax of $1\frac{1}{3}$ per cent; on the third, fourth, and fifth, a tax of 2 per cent; and on all taxable income above \$5000, a tax of 3 per cent."

This tax was known as the "income tax." It was provided also "that upon the salaries of all salaried persons, serving in any capacity whatever, except upon persons in the army or navy of the United States, or those whose salaries are \$600 or less per annum, an annual tax of one-half of 1 per cent on all sums over \$600 so received" should be levied. This tax was known as the "salary tax."

In the assessment of the income tax the sworn schedule provided for a statement of the gross income and the deductions therefrom. The following deductions were allowed: from all incomes, when returned by heads of families, \$600; losses on real estate, if purchased within the year; interest, taxes; amount actually paid for rent of homestead; and salaries. In addition to these, rent, insurance, and other expenses were allowed to be deducted from the profits of trade; from the rent of land, the average annual outlay for the repair of fences was deductible; and from the rent of buildings, actual repairs, not to exceed 10 per cent of the rent and insurance paid by the owner; from farming operations, the amounts paid for labor, repairs, live stock bought and sold during the year, insurance, and interest on any incumbrance upon the farm.¹

It is to be noted in regard to the assessment of the income tax that no use whatever was made of the principle of stoppage at the source. The salary tax also was self-assessed.

The income and salary taxes were in operation four years, or from 1867 to 1870. The returns, and especially those of the salary tax, were small. The law was poorly drawn and laxly administered, and evasion was wholesale. In 1867 no incomes were assessed in forty-two and no salaries in one hundred and

¹Act of November 10, 1866; Laws of 1866, p. 140. See *Millar v. Douglas*, 42 Tex., 288 (1875).

one out of one hundred and thirty-three counties; in 1868 no incomes were assessed in sixty-one out of one hundred and thirty-six counties, and no salaries in one hundred and fifteen counties.¹

C. Business Taxes.

The business taxes levied during this period were the customary specific occupation taxes, the income tax as described above, and the special tax upon the receipts of railroad, telegraph and insurance companies. The occupation tax embraced a widening range of vocations as time went on, and especially after the discontinuance of the income tax in 1870. It is interesting to note that in 1866 an ad valorem tax on money loaned and on merchandise higher than the general ad valorem tax was levied under the guise of an occupation tax. This feature, which was observable in ante-bellum taxation and represented a spirit of hostility to money lenders and merchants, does not reappear in subsequent acts. The occupation taxes were frequently changed, and those upon the retail liquor business particularly showed violent fluctuations. There were defects in the laws levying them and laxity of administration, especially in the matter of light penalties for non-payment and of the absence of checks upon collections.²

This period is important in the history of corporation taxation by the state for the attempt to make use of special corporation taxes. Until 1870 the method of taxing corporations was by the property tax and the income tax. In 1870 there was levied, in addition to the general property tax, an annual tax of two per cent upon the gross receipts of railroad, insurance, and telegraph companies.³ In 1871 this was changed, and railroad and telegraph companies became subject to a tax of one per cent upon net receipts, life insurance companies to an annual occupation tax of

¹Report of the Comptroller, 1868-9. Income tax assessed in 1867, \$38,892; salary tax assessed in 1867, \$1,186; ad valorem and poll taxes assessed in 1867, \$354,418; income tax assessed in 1868, \$14,600; salary tax assessed in 1868, \$1,086; ad valorem and poll taxes assessed in 1868, \$310,626; per cent of income and salary taxes to total assessed taxes in 1867, 10; in 1868, 4.8.

²Report of the Comptroller, 1874, p. 56.

³Laws of 1870, Called Sess., pp. 199, 216.

\$500, fire and marine insurance companies to one of \$250.¹ A few days later a tax of one per cent upon gross receipts was substituted for the one per cent tax upon net receipts. This combined use of the property and the receipts tax was thought to operate unfairly upon railroads as compared with telegraph companies because of the greater amount of tangible property owned by the railroads, and an increase in the tax upon telegraph companies to five per cent of their gross receipts was suggested.² The legislature, however, passed a bill which relieved railroads of taxation by the property tax, but it was vetoed by the governor on the ground that since the counties were not allowed to tax the receipts of railroads, fairness required that the ad valorem tax should not be remitted.³ The result of this difference of opinion between the governor and legislature was the repeal of the receipts tax, leaving only the ad valorem property tax applicable.⁴ Corporations got off with comparatively light taxation, and for the first time in the state's tax history there appeared complaints of the working of the property tax as applied to corporations.⁵

D. The Poll Tax.

A poll tax of \$1 was levied throughout the Reconstruction period. Until 1871 it applied to all males over twenty-one years of age, thereafter to those between twenty-one and sixty years, with the usual exceptions of Indians and persons *non compos mentis*. The tax of 1871 and thereafter was for the benefit of the public schools. The penalty for failure to pay this tax was that the person failing should not receive any money due him from the state or the county until the tax with interest had been paid. That there was considerable evasion of the tax may be inferred from the fact that whereas the census of 1870 reported the number of males twenty-one years of age and upward at 169,258, the number assessed for the poll tax in 1869 was only 95,895.⁶

¹Laws of 1871, First Sess., pp. 47, 60.

²Message of Governor Davis, April 24, 1871.

³Message of Governor Davis, November 28, 1871.

⁴Act of December 1, 1871; Laws of 1871, Adj. Sess., p. 55.

⁵Message of Governor Davis, January 14, 1873.

⁶Census of 1870, vol. 1, p. 619. Report of the Comptroller, 1870, p. 85.

E. Other Receipts.

Next to taxation the chief source of receipts was the sale and hypothecation of bonds. The attempt was made during the Throckmorton administration to issue frontier defence bonds, but it was unsuccessful. Upon the establishment of the Davis administration, however, the issue and sale of bonds began. Receipts from sale and hypothecation during the four years 1871-4 amounted to \$1,406,650.60 as compared with \$3,900,766 derived from taxation.

Receipts from the sale of land were negligibly small on account of the policy of giving away the public domain to actual settlers. Heads of families without a homestead were entitled to one hundred and sixty, single men to eighty, acres.¹ The conditions attached to the gift were three years' residence upon the land and payment of the land office fees. The old policy of pre-emption was continued by the act of August 12, 1870, which provided that any actual settler in good faith upon the vacant public domain could purchase not exceeding one hundred and sixty acres at \$1 per acre. Previous to the Constitution of 1869 and after the adoption of the constitutional amendment of 1873 grants also were made to railroads, and nine of the roads chartered during 1873 and 1874 received grants. School lands and certain other lands were reserved from location by settlers or railroads, but only a small amount of them was sold, and that during the early part of the period. One of the merits of the Reconstruction governments is that the school, university, and asylum lands were not suffered to be spoliated. No provision for their sale was really made until 1874. The Constitution of 1869 prohibited the sale of certificates at the land office, except to actual settlers, in excess of one hundred and sixty acres.²

¹Laws of 1866, p. 203. Constitution of 1869, art. 10, sec. 8. Laws of 1870, Called Sess., p. 69. Laws of 1871, First Sess., p. 16. Laws of 1871, First Sess., p. 93. Laws of 1873, p. 101.

²Art. 5, sec. 6.

CHAPTER 4.

EDUCATIONAL FUNDS.

A. The School Fund.

At the beginning of this period the assets to the credit of the school fund were \$1,753,317 of 6 per cent railroad bonds, \$320,367.13 of 6 per cent state bonds, and \$19,474 in state warrants.

The amended Constitution of 1866 reserved to the school fund its former endowments of securities and lands, but it did not provide, as had the old constitution, that a part of the annual revenue of the state derived from taxation should belong to the fund. As a result, the receipts during the five years 1866-1870 were from lands and railroad bonds only and were insignificant in amount. The Constitution of 1869 made some important changes. Endowments theretofore made were confirmed, and all of the proceeds of the public domain, one-fourth of the annual revenue from taxation, and a poll tax of \$1 were granted. By the act of August 13, 1870, the present division of the school funds into a permanent fund and an available fund was made. Under the new tax provisions a total of \$1,053,625 was received by the available fund during the four years 1871-1874. Apportionment, which had been suspended since the war, was begun in 1872, the per capita varying between \$1.81 and \$1.95. As there was little local taxation to supplement the state apportioned funds, the school facilities afforded were meager, but any facilities at all represented a step forward. Such opposition as was expressed to taxation for schools was not against the state taxes but against the taxes which the county or school districts were empowered to levy. Most strongly protested was the 1 per cent ad valorem tax which the directors of each school district could, by the act of April 17, 1871, levy for the purpose of building schoolhouses and maintaining schools.¹

A question which came up for consideration during this period, and which was of great importance to the school fund, was the adjustment of the indebtedness of the railroad companies to the

¹Proceedings of the Taxpayers' Convention, Austin, 1871, pp. 22 and 27. Kinney v. Zimbleman, 36 Tex., 554 (1872). See also Clegg v. the State, 42 Tex., 605 (1875).

fund. The act of November 10, 1866, gave the companies the privilege of paying the interest due in installments, the last payment to be made June 1, 1870. During 1867 and 1868, \$60,871.73 was paid. On March 1, 1868, the companies owed \$450,140.08 on account of accrued interest, and \$1,753,317 as principal, or a total of \$2,203,457.08.¹ The Reconstruction Convention of 1868-9 was disposed not to be lenient with the companies. It granted relief to the Houston and Texas Central, to which was joined the Washington County Railroad, and to the Southern Pacific, but the Houston Tap and Brazoria, and the Texas and New Orleans were ordered sold.² Relief was extended to all the roads by the act of August 13, 1870, permitting payment of interest and in addition 1 per cent toward a sinking fund every six months. Past interest due to May 1, 1870, was charged as principal, and the total amount in state warrants in 1864 and 1865 was \$979,069.86. The only road sold for failure to accept these provisions was the Houston Tap and Brazoria. The amount obtained from this sale was \$130,000.³ As a result of this default and forced sale the school fund lost the sum of \$165,800 principal and \$178,970 interest.⁴ The Houston and Texas Central and the Southern Pacific were authorized to exchange for their indebtedness new 7 per cent bonds, and the Central was further favored by having credit allowed it for the sums paid for interest in treasury warrants during the fiscal years 1864 and 1865.⁵ The comptroller, however, upon the advice of the attorney general, refused to allow credit to the Houston and Texas Central for the payments made in warrants in 1864 and 1865, and the exchange of bonds was never made.⁶ The validity of the payments in state warrants during the war was subsequently legally contested, however, and was settled in favor of the railroads.⁷ Interest payments were resumed by the companies in 1870, but the experience was responsible for the constitutional provision that

¹Report of the Comptroller, 1868-9.

²Ordinances of the Constitutional Convention, 1868, pp. 46, 77, 35, 36.

³Report of the Comptroller, 1871.

⁴Report of the Comptroller, 1891, p. XIX.

⁵Ordinances of the Constitutional Convention, 1868, pp. 46, 47. *Laws of 1870, Called Sess.*, p. 325.

⁶Message of Governor Roberts, January 11, 1881.

⁷*H. & T. C. R. R. Co. v. Texas*, 177 U. S., 66-103 (1899).

future investments of the school fund should be in United States bonds.

In 1868 \$82,168.82 in 5 per cent state bonds appeared among the assets of the permanent school fund. These bonds replaced that amount of cash which was derived from the payment of United States bonds belonging to the fund and which had been used by the state government. They were regarded as a valid debt of the state, but no interest was paid on them. The 6 per cent bonds amounting to \$320,367.13, which were executed to the school fund during the war in exchange for state treasury warrants received from railroads in payment of the interest and principal of their indebtedness, were not recognized as a valid debt during this period.¹

B. University Fund.

The university fund had been depleted of its assets by the legislation of 1860 and was possessed of nothing at the beginning of this period except some state warrants and a comptroller's certificate of indebtedness, both of which were of doubtful validity.

The Constitution of 1866 reserved to university purposes the previous grant, but the Constitution of 1869 made no reference whatever to the subject. The act of November 12, 1866, provided for the issue to the fund of \$134,472.26 of 5 per cent state bonds to replace the United States bonds and interest on same which were appropriated in 1860. No interest was paid on this debt, however, during this period. Measures were passed in 1870 and 1871 authorizing the sale of the university lands, but they were vetoed by Governor Davis on the ground that there existed no necessity for sacrificing these lands.² The act of April 8, 1874, provided for the sale of the lands, however, and the receipts under this act are the only ones accruing to the fund from any source during the Reconstruction period.

C. Agricultural and Mechanical College.

By the act of Congress of 1862 and the supplementary act of 1866, Texas received from the United States land scrip for 180,000

¹Message of Governor Davis, August 6, 1870.

²Veto message of May 29, 1871.

acres for the purpose of establishing an agricultural and mechanical college. This scrip was sold in 1871 at 87 cents an acre, the amount realized being \$156,600. This was quite as well as other states did in the sale of their scrip, but representing as it did some of the best land of the national domain, it was unfortunate that it could not have been held for sale until a later date.¹ The proceeds were invested in \$174,000 7 per cent frontier defence bonds of the state and in \$12,000 10 per cent bonds of Brazos County; \$12,000 of the proceeds was drawn under the pretence that it was necessary to purchase the lands required for the location of the college, but the money was loaned and the comptroller held unpaid notes for it; \$21,096 also was expended for a worthless foundation for the main building.²

¹The San Antonio Daily Herald, April 14, 1871.

²House Journal, 14th Leg., p. 119.

CHAPTER 5.

PUBLIC DEBT.

The first official statement of the debt incurred during the war was made in October, 1865. A. J. Hamilton was appointed provisional governor of Texas by President Johnson on January 17, 1865, and ex-Governor Pease and Swante Palm were appointed by the provisional governor to report on the finances of the state since secession. Their report was made under date of October 30, 1865.¹ The following analysis of the debt is based on their report and on the state statutes:

- Item I. 8 per cent state bonds. Authorized by the act of March 20, 1861, entitled "An Act to provide for the funding of the debt contracted for the protection of the frontier"².....\$ 16,000.00
- Item II. 8 per cent state bonds. Authorized by the act of April 8, 1861, entitled "An Act authorizing a loan and imposing a specific tax to meet the principal and interest thereof"³....\$ 899,000.00⁴
- Item III. 7 per cent state bonds. Authorized by the act of December 10, 1863, entitled "An Act to raise two millions of dollars, or so much thereof as may be necessary, by the sale of cotton bonds, to provide for the defence of the State and to repel invasion, and for the purchase of machinery for manufacturing purposes"⁵..... 211,130.83

¹Executive Record No. 281. The report is abridged and printed as an appendix to the House Journal, 1866.

²Laws of 1861, Called Sess., p. 24. Repealing act of January 11, 1862; Laws of 1862, p. 44.

³Laws of 1861, p. 30. Amendatory act of January 11, 1862; Laws of 1862, p. 40. Act of January 13, 1862; Laws of 1862, p. 40. Act of March 3, 1863; Laws of 1863, Called Sess., p. 10.

⁴There were \$917,000 of these bonds issued, but \$17,000 were unused and \$1,000 mutilated, leaving net amount \$899,000.

⁵Laws of 1863, p. 9. Supplementary act of December 16, 1863; *ibid.*, p. 29.

Item IV. Treasury warrants. These were of two classes, 10 per cent interest warrants and non-interest warrants. The interest-bearing warrants were authorized by the act of February 14, 1860. ¹ The amount of 10 per cent interest warrants outstanding, including interest, was given to be about		180,000.00
Non-interest bearing warrants were authorized by the act of January 10, 1862. ² The amount of non-interest warrants outstanding was given to be.....		1,888,997.90
Item V. Due soldiers and for supplies. Amount estimated at.....		3,150,000.00
Item VI. Due on account of the Republic of Texas. Amount estimated at.....		110,613.23
Item VII. Due school fund, university fund, and other special funds of the treasury on account of securities and specie borrowed by the general fund and on account of treasury warrants and Confederate notes received by such funds.....		\$1,455,913.86
Item VIII. Unclassified debt.....		199,176.76
Total.....		\$8,110,832.58

An account of the objects for which the above debt was incurred is essential to an understanding of later legislative action on it. The 8 per cent bonds of item I were issued to fund treasury warrants on account of liabilities antedating March 2, 1861. The 8 per cent bonds of item II were issued on account of \$92,601.67 of liabilities incurred before March 2, 1861, and of \$105,600.38 of civil and \$700,797.95 of military liabilities incurred after March 2, 1861. The 7 per cent bonds of item III were issued on account of military expenditures after March 2, 1861. The outstanding treasury warrants of item IV are not classified as

¹Laws of 1860, p. 115. Repealed by act of January 10, 1862; Laws of 1862, p. 34. See also the funding act of March 20, 1861; Laws of 1861, p. 24. And the act of January 11, 1862; Laws of 1862, p. 44.

²Laws of 1862, p. 34. The act of January 13, 1862 (Laws of 1862, p. 40) authorized funding in 8 per cent loan bonds. See also act of May 28, 1864; Laws of 1864, First Called Sess., p. 10.

to use or date of issue, but it is stated that about \$1,150,000.00 was drawn after March 2, 1861, for the support of soldiers' families. The claims estimated under item V were obviously of a war character and dated after March 2, 1861. The amount of item VI represented an estimate of the unfunded, non-interest-bearing debt of the Republic of Texas. There existed an appropriation for the payment of such of this debt as had been audited.¹ Of item VII, the amount due the school fund was \$1,137,406.65 and was on account of United States bonds, interest coupons and specie transferred from that fund, and state bonds and treasury warrants held by that fund. All of the transactions occurred after January 28, 1861. The amount due the university fund was \$283,514.22, and was on account of United States bonds, interest coupons and specie transferred from that fund, and treasury warrants and Confederate notes received by that fund. Some of the debt to this fund was incurred prior to January 28, 1861. The balance of item VII was due special treasury accounts, such as escheated estates, county tax funds, etc., and was incurred after January 28, 1861. Item VIII, or the debt of miscellaneous character, was not described by the investigators.

The debt as above described was, both as to amount and character, that which confronted the delegates to the constitutional convention which convened in Austin on February 7, 1866. This convention was composed of delegates elected by such citizens only as had taken the oath of amnesty or had received special pardon from the President of the United States.

Ordinance No. 2, passed by this convention March 15, 1866, declared all debts created by the State of Texas in the aid of the late war, directly or indirectly, to be null and void, and forbade the legislature to assume or make any provision for the payment of any portion of the debts contracted or incurred, or warrants issued by the state between January 28, 1861, and August 5, 1865, except warrants issued in payment of services rendered, or liabilities incurred before January 28, 1861.²

Ordinance No. 15 of this convention validated all the warrants issued for the payment of troops called into the service of the state

¹Report of the Comptroller, 1860-1.

²Ordinances of the Constitutional Convention, 1866, p. 33.

by Governor Houston for the protection of the frontier prior to March 2, 1861.¹

Ordinance No. 12 acknowledged the indebtedness of the state to the school fund for only the United States bonds and interest coupons transferred from that fund and which were then in possession of the state or which might be recovered by the state. It also acknowledged the indebtedness of the state to the university fund for the United States bonds and interest coupons transferred from that fund in February, 1860. It directed that the legislature should issue state bonds to these funds for this indebtedness, and it ordained that the legislature should have no authority and was forbidden to assume or provide by taxation or otherwise for the payment of any other claim or pretended liability of the state to the school and university funds.²

The debt repudiated by ordinance No. 2 included all the war debt incurred on account of civil as well as military expenditures. Some ten members of the convention went on record in protest against the repudiation of the debt for civil purposes, on the ground that it was not required by the President's restoration policy.³ The arguments advanced in support of repudiating the civil debt were: first, that it consisted largely of treasury warrants issued to circulate as money and therefore in violation of article VII, section 8, of the amended Constitution of 1861; second, that the assumption of this debt would bankrupt the state; third, that the warrants were in the hands of domestic speculators who had evaded military service during the war; and, fourth, that a large amount of the debt had been contracted for the persecution of Union sympathizers.⁴ Opposing arguments were based on the injustice to those who had furnished their services and goods to the state institutions and civil departments, and on the effect the repudiation would have on the credit of the state.⁵

The convention appears to have acted, however, in accordance with what it conceived to be the President's restoration policy.

¹Ibid., p. 46.

²Ibid., p. 45.

³Journal of the Convention of 1866, p. 356.

⁴Ramsdell, *Reconstruction in Texas*, p. 102.

⁵Convention Journal, 1866, p. 117. House Journal, 11th Leg., p. 193.

"We have by ordinance declared the entire debt growing out of, and accruing during the war null and void, and forbidden the legislature assuming or providing for the payment of any portion of it. In so complete and full a manner as language can express, we have declared ourselves on these important questions which have been deemed so vital to sustaining your policy."¹ No record has been found of a suggestion by President Johnson to the provisional governor or to the convention of this repudiative action. He had, however, in the previous year made the suggestion to Provisional Governor Holden of North Carolina that "Every dollar of the debt created to aid the rebellion against the United States should be repudiated finally and forever."²

The provisional government of Texas ceased and a restored state government went into effect August 20, 1866. An act of November 9, 1866, entitled "An Act to ascertain the amount of, and adjusting and funding the State debt, and to state any and all accounts between the State and individuals," created an auditorial board "for the purpose of auditing all claims for money against the state and reauditing all the audited liabilities of the state not inhibited by the Constitution."³ The principal work of the board consisted in separating from the debt incurred between January 28, 1861, and August 5, 1865, that part incurred on account of expenditures authorized before January 28, 1861. The action of the board ceased December 1, 1867.⁴ An analysis of its report shows the following:

Item I. 8 per cent bonds of March 20, 1861.

Amount issued, \$16,000.00. Amount rejected,	
\$86.04. Amount of principal recognized or estimated valid, \$15,913.96; interest, \$1,319.60. Total	
\$17,233.56. Amount audited, \$4,133.56. Balance outstanding	\$ 13,100.00

¹Report of select committee to prepare an address to President Andrew Johnson; *Journal of the Convention of 1866*, p. 317.

²W. L. Fleming, *Documentary History of Reconstruction*, vol. 1, p. 180.

³Laws of 1866. p. 122.

⁴The report of the board is to be found in the Comptroller's Report, 1868-9, pp. 32-37; also in the Reconstruction Convention Journal, 1869, vol. 1, pp. 364-8.

Item II. 8 per cent bonds of April 8, 1861. Amount issued, \$917,000.00. ¹ Amount rejected, \$855,-111.95 Amount of principal recognized or estimated valid, \$61,888.05; interest, \$13,909.00. Total, \$75,797.05. Amount audited, \$30,389.88.	
Balance outstanding and unaudited.....\$	45,407.17
Item III. 10 per cent warrants. Amount issued less amounts funded and received in the collection of revenue, \$109,988.69. Interest to December 1, 1867, \$69,292.44. Total principal and interest, \$179,281.12. Amount rejected and estimated to be invalid, \$30,591.29. Amount audited as valid, \$72,680.05. Amount outstanding and unaudited and estimated valid, \$76,009.79. Total recognized and estimated valid.....	
	148,689.84
Item IV. Non-interest notes (warrants). Amount issued less amounts funded and received in the collection of revenue, \$62,942.82. Interest allowed to December 1, 1867, \$27,065.41. Total principal and interest, \$90,008.23. Amount of principal and interest audited, \$35,047.61. Amount outstanding, of which \$11,541.72 was estimated as valid, \$54,960.62. Total audited and estimated valid.....	
	78,466.51
Item V. Amount of 8 per cent certificates issued in payment of minute companies under act of November 12, 1866, and audited, \$3,570.76. Interest and amount unaudited, \$354.97. Total..	
	3,925.73
Item VI. Unaudited claims. Amount audited, \$3,323.48. Estimated outstanding, \$5,000.00.	
Total	8,323.48

The debt described in items V and VI appears to have been incurred after August 5, 1865. Omitting these, therefore, for the time being, the total of the debt described in Items I-IV was, with interest, \$1,217,517.96; total rejected, \$897,331; total valid, \$320,186.96.

¹This figure includes the \$17,000 unused and the \$1,000 mutilated.

Adding the total of Items V and VI to the valid,	
the total valid debt was.....	\$ 332,436.17
Audited	149,145.34
Outstanding and unaudited.....	183,290.83

The act creating the auditorial board authorized the issue of 6 per cent, ten-year bonds, interest payable semi-annually, for which audited valid claims were exchangeable at the state treasury. The board issued \$149,145.34 certificates of valid claims, and \$125,100.00 were exchanged for bonds known as the Throckmorton bonds.

The auditorial board confined its action to the debts due individuals and did not audit those due the special funds, such as the school and university funds. The indebtedness of the state to these funds was defined by ordinance No. 12 of the Convention of 1866. Pursuant to this ordinance, the legislature by act of November 12, 1866, provided for the issue to the school fund of 5 per cent, twelve-year bonds, interest payable semi-annually, in place of the United States bonds and interest coupons transferred from that fund since January 28, 1861, and which were then in the possession of the state or which might be recovered by the state.¹ Bonds of the state to the amount of \$82,168.82, bearing date of January 1, 1867, were accordingly debited to the school fund.² This same act of November 12, 1866, in obedience to the requirements of ordinance No. 12, provided for the issue of similar bonds to the university fund on account of the United States bonds and interest coupons transferred from that fund in February, 1860, and February, 1861.³ This transfer of the United States bonds was made under authority of the acts of January 31, 1860, and February 8, 1861. Bonds of the state, bearing date of January 1, 1867, to the amount of \$134,472.26, were debited to the university fund in pursuance of the law of 1866. Ordinance No. 12 specifically provided that these were the only liabilities of the state to the school and university funds which the legislature had any authority to assume or provide for by taxation

¹Laws of 1866, p. 208.

²Report of the Comptroller, 1868-9. Laws of 1883, p. 15.

³House Journal, 17th Leg., Called Sess., p. 27.

or otherwise. Despite this prohibition, however, every comptroller's report from 1866 to 1883 included in the school fund statement 6 per cent state bonds for \$320,367.13, dated May 13, 1865, and in the university fund statement, a comptroller's certificate of indebtedness for \$10,300.41, dated June 8, 1865. The 6 per cent bonds were issued to the school fund for the purpose of funding state treasury warrants received by the school fund from railroad companies in payment of interest on their bonds.¹ The warrants funded were received during the period from August 31, 1863, to June 8, 1865. The certificate of indebtedness held by the university fund was on account of treasury warrants received by that fund from land sales which were fundable in the 8 per cent bonds of April 8, 1861.² The warrants were received between February, 1861, and June 8, 1865.

The action on the debt of the state taken by the constitutional convention of 1866 and by the legislature of 1866 was not to be the final one, however, for the civil government which had been inaugurated on August 13, 1866, and under which an orderly ascertainment of, and provisions for, the debt had been made, was short-lived. Under the Reconstruction Acts of Congress of March and July, 1867, Texas was held to be unreconstructed, her civil government was abolished, and a military or provisional government again established.³ Another constitutional convention was ordered and held in Austin from June 1 to August 31, 1868, and from December 7, 1868, to February 6, 1869. A constitution was framed which was accepted by the people in an election held from November 30, 1869, to December 3, 1869, and this constitution was ratified by the Congress of the United States on March 30, 1870. Between the date of the amending of the constitution by the convention of 1866 and that of the framing of the constitution adopted in 1869, the Fourth Amendment to the Constitution of the United States had been adopted. This amendment was proposed on June 16,

¹Laws of 1863, p. 37. Laws of 1864, Called Sess., p. 9, and Second Called Sess., p. 14.

²Laws of 1861, p. 19. Laws of 1862, p. 42.

³Gammel, *Laws*, vol. 6, pp. 3-12. For the history of this period, see *Texas v. White*, 7 Wallace, pp. 700-743 (1868).

1866, and was declared by Congress adopted on July 21, 1868. Section 4 of this amendment provided that "neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States . . . ; but all such debts, obligations and claims shall be held illegal and void." Accordingly, the Texas Constitution of 1869, article 12, section 34, provided:

(1) That "All debts created by the so-called State of Texas, from and after the 28th day of January, 1861, and prior to the 5th day of August, 1865, were and are null and void; and the Legislature is prohibited from making any provision for the acknowledgment or payment of such debts."

(2) That "All unpaid balances, whether of salary, per diem, or monthly allowance, due to employees of the State, who were in the service thereof on the said 28th day of January, 1861, civil or military, and who gave their aid, countenance, or support to the rebellion then inaugurated against the government of the United States, or turned their arms against the said government, thereby forfeited the sums annually due them."

(3) That "All the 10 per cent warrants issued for military services and exchanged during the rebellion at the treasury for non-interest warrants are hereby declared to have been fully paid and discharged."

(4) "Provided, that any loyal person or his or her heirs or legal representatives may, by proper legal proceedings, to be commenced within two years after the acceptance of this Constitution by the Congress of the United States, show proof in avoidance of any contract made, or revise or annul any decree or judgment rendered since the said 28th day of January, when, through fraud practiced, or threats of violence used towards such persons, no adequate consideration for the contract has been received; or when, through absence from the State of such person, or through political prejudice against such person, the decision complained of was not fair and impartial."¹

Nothing was done by the legislature about the debt until 1871, when by the act of May 2, 1871, provision was made for its

¹The paragraphing is that of the present writer.

reauditing.¹ A bill was introduced in the called session of the Twelfth Legislature in 1870 to audit and ascertain the public debt, but it was not passed until the eve of adjournment and did not receive the signature of the governor.² An auditorial board was created by this act whose duty it was to examine the work of the auditorial board of 1866 and to audit all other claims against the state. The act provided that bonds issued by the board of 1866 for claims void under the constitution should be considered void and should be canceled. A comparison of the provisions of 1866 and of 1869 shows that the only claims interdicted by the Constitution of 1869 and not by that of 1866 were: (1) the unpaid balances due those employees of the state on January 28, 1861, who did not remain loyal to the government of the United States, and (2) the 10 per cent warrants issued for military services and exchanged during the war for non-interest-bearing warrants.

The auditorial board created by the act of May 2, 1871, made its first report under date of September 1, 1871.³ The report stated that, "upon a careful examination of the transactions of the board of 1866, we have been unable to discover any error in the auditing with the exception of \$10,283.12 allowed as interest on non-interest warrants—, but this is a question about which persons may honestly differ." In regard to the unpaid balances due disloyal persons on January 28, 1861, and the 10 per cent interest warrants exchanged during the war for non-interest warrants, each of which was interdicted by the Constitution of 1869, the board stated that the former character of claims would not exceed \$10,000, the latter \$78,466.51, and that the board of 1866 had funded about \$40,000 of these claims in 6 per cent bonds. On account of the higher interest (10 per cent) which the valid portion of the claims would bear if re-audited as compared with the 6 per cent interest which the bonds bore, the board estimated that the state would save only about \$25,000 by repudiating the claims. Because of the com-

¹Laws of 1871, p. 67. Supplementary act; *ibid.*, p. 123. Supplementary act; Laws of 1871, Adj. Sess., p. 25.

²Report of the Comptroller, 1870, p. 10.

³House Journal, 12th Leg., Adj. Sess., p. 66.

paratively small amount involved and because the holders of the bonds refused to submit them for cancelation, on the ground that they were issued in accordance with the constitution and laws of Texas and of the United States, the board, which was composed of the attorney general, the comptroller, and the treasurer of the state, recommended that the action of the board of 1866 in regard to these claims be confirmed. The recommendation of the board in regard to the bonds was adopted by the legislature and appropriation for the payment of interest on the claims was made in the act of November 13, 1871.¹

This legislative validation of the action of the board of 1866 extended only to the bonds based upon the certificates of indebtedness issued by that board. But for this validating act some \$40,000 of the 6 per cent bonds issued under date of January 1, 1867, would have been held null and void, because they represented either debt to disloyal persons or were on account of an exchange of interest warrants for non-interest warrants during the war. It will be remembered that there were some \$24,045.34 of unfunded certificates issued by the board of 1866. The act of November 13, 1871, validated these also, subject to the provisions of the Constitution of 1869. The board of 1866 had reported that the estimated valid portion of the outstanding and unaudited debt amounted to \$183,290.83. These claims were also subject, in auditing by the boards of 1871 and subsequent years, to the provisions of the Constitution of 1869. It will thus be noted that the act of November 13, 1861, observed the distinction between bonds and unfunded claims. Although some of the bonds issued during the war and based upon liabilities incurred before the war would be included in these unfunded claims, their amount was not known and they could not be properly classed as a part of the bonded debt of the state until they had been audited. The life of the auditorial board was extended by the act of November 13, 1871, to January 1, 1873, and it was also provided that all interest-bearing claims should be presented on or before March 1, 1872, on pain of not bearing interest after that date.

The act of May 2, 1871, provided for the issue and sale of 6

¹Laws of 1871, Adj. Sess., p. 25.

per cent, twenty-year bonds to secure the money needed to pay the valid claims ascertained by the auditorial board; it was also provided that holders of claims might exchange their claims for these bonds. The claims subject to payment from the proceeds of the sale of these bonds, or to funding in them, were the valid certificates of indebtedness issued by the board of 1866 and the other valid claims of the same period. The act of November 13, 1871, not only validated the bonds of 1866, amounting to \$125,000.00, but also appropriated \$40,269.15 to pay the interest upon them from date of issue. It also appropriated \$15,000 to pay the principal and interest of the bonds issued under the act of March 20, 1861. These amounts were drawn during the fiscal year ending August 31, 1872.¹

All of this legislation of the state and all the acts of the auditorial boards related to the debt of the state to individuals. The 5 per cent bonds, amounting to \$82,168.82, issued under the act of November 12, 1866, to the school fund, and the 5 per cent bonds, amounting to \$134,472.26, issued under the same act to the university fund, were issued to those funds because of transfers made from them to the state revenue account. Those held by the school fund were on account of the United States bonds and interest coupons transferred under authority of the act of January 11, 1862, and which in 1866 were in the possession of the state, or which might be recovered by the state.² The comptroller's reports for 1874 and subsequent years err in describing the state bonds issued to the school fund at this time as indemnity for United States bonds used during the war. They were only transferred from the school fund during the war, but as the ordinance of 1866 and the comptrollers' reports of 1866 and 1867 make clear, they were used for general revenue purposes between August, 1865, and January, 1867. The 5 per cent bonds issued to the university fund were on account of the United States bonds and interest coupons transferred from that fund to state revenue account in February, 1860, and February, 1861. It is highly questionable whether one should regard the bonds

¹Report of the Comptroller, 1872. pp. 29-30.

²For act of January 11, 1862, see *Laws of 1862*, p. 55. For act of November 12, 1866, see *Laws of 1866*, p. 208.

of the state held by its special funds as binding state obligations, subject, like the state debt to individuals, to all debt conditions against non-payment of interest and failure to pay principal at the contracted date. It is certainly questionable in the case of the state obligations held at this time by the school and university funds. Neither the Constitution of 1846 nor the amended Constitution of 1861 protected the educational funds against the transfer of the funds authorized by the acts of January 31, 1860, and January 11, 1862.¹ Legislative action alone was responsible for the possession of the 5 per cent United States bonds by these funds and legislative action was unrestrained by any constitutional provision against recalling them at any time. But even if they should be regarded at the time of issue as a binding, bonded obligation, the failure of the state to acknowledge their validity, as it did the other debt authorized in 1866, throws doubt on their validity after the overthrow of civil government in 1867. Neither the legislature nor the auditorial board of 1871 took any cognizance of these 5 per cent state bonds, and this appears to have been fatal to their position, for they were classed as doubtful or worthless in every comptroller's report after 1870, except that of 1881-2. The passage of the Reconstruction Acts of Congress in 1867 and the consequent overthrow of civil government and the establishment of military government in Texas, threw the state back exactly to where it had been at the close of the war in 1865. As the bonded debt due individuals and authorized by the act of 1866 had to be reviewed to be valid, so it would seem any other bonded debt authorized in 1866 should have been reviewed and validated to be a binding obligation. This was not done for the 5 per cent bonds held by the school and university funds, and they remained of doubtful validity, no interest being paid on them and their date of maturity passing without payment, until 1883. By this act of February 23, 1883, they were validated and were ordered paid with accrued interest.²

The reports of the comptroller after 1865 carried also among

¹See art. 10 of the Constitution of 1846 and the amended Constitution of 1861.

²Laws of 1883, p. 15.

the debt of doubtful validity the 6 per cent state bonds dated May 13, 1865, and the comptroller's certificate of indebtedness dated June 8, 1865, the bonds being held by the school fund, and the certificate by the university fund. As has been explained these were specifically declared void as war debts in 1866, and they were not validated until 1883. Their validation and payment under the act of February 23, 1883, was, as far as legal obligation was concerned, a pure gift under the guise of payment of a debt. The failure of the state up to 1883 to pay the interest or the principal of the above obligations held by the school and university funds was therefore legally justifiable in the light of the history of the obligations.

If the action taken by the constitutional conventions and the legislature relative to the principal of the war debt can be justified, was the interest on the bonded indebtedness found to be valid by the auditorial boards of 1866 and 1871 paid after the war? It appears from the report of the auditorial board of 1866 that interest on the bonds of March 20, 1861, was paid to January 1, 1867, and that no interest was paid on the bonds of April 8, 1861, from January 1, 1865, to January 1, 1867.¹ Such of this debt as was found to be valid by the board of 1866 and was funded in the bonds authorized by the act of November 9, 1866, had no interest paid on it until the passage of the act of November 12, 1871. The failure to pay interest as it fell due is not chargeable to the dereliction of the State of Texas but to the Congress of the United States. If there had been any bonded debt which antedated the war, there would have been no question as to the obligation of the state to pay interest on it at the time stipulated; but all of the bonded debt of the state was authorized during the war or after January 28, 1861. Therefore, the question as to payment of interest on the valid debt subsequent to the war depends on the date of the establishment of the validity of the debt. Because of the abolition of the civil government and the re-establishment of the military government by the Reconstruction Acts of Congress in March and July of 1867 the action of Texas in 1866 providing for its ascertainment was nullified, and Texas may be said not to have had

¹See Comptroller's ledger, 1861-5, pp. 437-441.

any known valid debt until 1871. As soon as the valid debt was determined, payment of accrued interest was promptly made, and interest thereafter on it and on all other debt was always promptly paid.

It may be asked further, Was the principal of the valid debt promptly paid at maturity? The bonds issued under the act of March 20, 1861, were payable July 1, 1871. Because these bonds were issued during the war period, though to fund floating liabilities incurred before the war, they were subject to auditing before their validity could be established. In view of the Reconstruction Acts of Congress, there was no legally constituted body that could finally determine their validity until 1871. By the act of November 13, 1871, appropriation was made for the audited and valid portion of this debt. The bonds issued under the act of April 8, 1861, were due sixteen years from their date. Such of these as were valid and were exchanged for the bonds issued in 1866 were paid at maturity; those valid and which were not exchanged for the bonds of 1866 were either exchanged for bonds authorized by the act of May 2, 1871, or were paid before their maturity.

The beginning of the Reconstruction debt proper was in 1870. By the act of August 5, 1870, the issue of \$750,000 of 7 per cent gold bonds, redeemable after twenty years and payable after forty years, was authorized to meet the appropriations made for maintaining ranging companies on the frontier.¹ Authority was given also to levy a tax sufficient to pay the interest and provide a sinking fund for the bonds, and the governor was empowered to sell or hypothecate the issues at the best price obtainable, the commission on sale, however, being restricted to not more than 1 per cent. The governor, the comptroller and the treasurer were at loggerheads for a time, the latter officers declining to give their signatures to the engraver on the ground that it would place the credit of the state in the engraver's hands.² Only three hundred and fifty of the bonds were sold during this period and these in the year 1871 and at

¹Laws of 1870, Called Sess., p. 45. These are known as the frontier defence bonds.

²The San Antonio Daily Herald, September 7, 1870.

an average price of 89.4. The gross amount received was \$313,200, which, after deducting commissions, left a net amount of \$312,200.¹ Of the three hundred and fifty sold, one hundred and seventy-four were exchanged for cash held in the Agricultural and Mechanical College fund, leaving only one hundred and seventy-six disposed of to outsiders. These circumstances attest a difficulty of sale due to lack of faith in the state's credit. The interest on these bonds was met and a sinking fund was established. The sinking fund, however, was not invested in United States bonds, but was used to retire the frontier defence bonds, and up to August 31, 1874, \$53,000 of these bonds had been redeemed.

Beginning with the fiscal year 1870 there were annual deficiencies in the current revenue, and bond sales were resorted to for the purpose of making ends meet. In May, 1871, \$400,000 10 per cent bonds, redeemable in lawful currency of the United States after two years and payable after five years, were authorized to cover the deficiencies of 1871 and 1872, and in December, 1871, an issue of \$2,000,000 7 per cent, twenty year bonds, were authorized for deficiency purposes. There were no restrictions as to the price at which these bonds should be sold, and in the case of the December issue no limit as to the commission that might be paid for sale.² In May, 1873, \$500,000 10 per cent bonds, redeemable after three years and payable after ten years, were authorized for the purpose of funding state warrants.³ There were sold in 1871 and 1872 two hundred and fifty-two of the deficiency bonds authorized by the act of May 2, 1871. At an average price of 93.5 they yielded gross \$235,870.74, but with commissions deducted the net amount received was \$229,375.94, and \$156,433.47 of this amount was received in state warrants.⁴ None of the deficiency bonds authorized by the act of December 2, 1871, was sold, and only \$89,800 of the 10 per cent funding bonds were issued up to August 31, 1874. In addition to bonds sold, three hundred and fifty of the frontier

¹Statement of the Comptroller; House Journal, 16th Leg., First Sess., p. 79.

²Laws of 1871, p. 106. Laws of 1871, Adj. Sess., p. 63.

³Laws of 1873, p. 119.

⁴House Journal, 16th Leg., First Sess., p. 79.

defence and one hundred of the deficiency bonds were hypothecated with Williams and Guion, of New York, for \$327,074.70.

Excluding \$650,900 of debt authorized by the act of March 4, 1874, because it represents a measure of the administration which succeeded the Reconstruction, there was added to the funded debt of the state up to August 31, 1874, a gross amount of \$900,900. There was redeemed during the period \$57,100 of debt, so that the net addition was \$843,800. There was besides a floating debt of \$1,574,826.31, making a total debt contracted before January 14, 1874, or the date when the Democratic administration succeeded the radical, of \$2,418,626.31¹ There was also the debt due the school and university funds which was classed as of doubtful validity and which amounted to \$809,311.67.² The sum of the recognized and the doubtful debt is \$3,227,937.98. Deducting \$956,321.88,—which is the sum of the debt ascertained by the auditorial boards of 1866 and 1871 (\$251,047.84), the debt of doubtful validity with accrued interest due the university fund, and the indebtedness to the school fund under the act of November 15, 1864,—as the amount of pre-reconstruction debt, there remains \$2,271,616.10. This latter amount is the debt imputable to Reconstruction. The portion of this which was incurred during the Davis administration is approximately \$2,172,262.21.

The debt policy of the reconstructionists is open to sharp criticism. The issue of bonds to meet deficiencies in the revenue when caused by extravagance in expenditures is illegitimate financiering and is to be wholly condemned. The funded debt also existed in five different shapes and was issued under as many different statutes. A debt issued under more uniform provisions would probably have been more inviting to capitalists. Considering, however, the character of the state government at this time and the doubtfulness of state credit generally, the prices at which the bonds were sold were fair.

The result of the large floating debt was injustice to creditors, an added cost to the state for supplies purchased, and collusion

¹The Report of the Comptroller, 1874, gives as the amount of certificates of public debt fundable in 6 per cent bonds \$40,974.84. The amount given should be \$46,947.84.

²This amount includes \$262,003.05 accrued interest.

between officials and creditors in the payment of warrants.¹ The discount on warrants was as much as 50 per cent, and the spectacle was presented of men and boys employed by merchants to stand in the treasurer's office from morning until night to watch for deposits.² Suggestions were made for paying warrants according to their date or number, and for making them receivable at the treasury in discharge of debts due the state, but neither of these was adopted, though the former would seem to have been desirable. As soon as the new administration came into power the payment of warrants dated before January 15, 1874, was temporarily arrested, but they were allowed 8 per cent interest from date of registration with the comptroller.³

But for the chance obstinacy of the comptroller and the opposition of the governor, Texas would have issued from the Reconstruction period saddled with a heavy debt representing subsidies to railroads. The state was under moral obligation to the International Railroad Company to adjust its claim to a subsidy, because construction of the road had begun and the company had otherwise met the conditions of the chartering act. The blocking of the will of the legislature and of the governor in this matter by the comptroller, while his action redounded to the welfare of the state, was, to put it mildly, extraordinarily presumptuous. In the adjustment of the matter a very respectable element favored a subsidy and thought that this kind of aid generally would be the most effective in securing railroads. The cost, however, which this policy would have involved would have been beyond the ability of the state, and the grant of land and exemption from taxation for twenty-five years to the International Company and land grants to other companies is to be regarded as a wise solution of the vexed question.

¹Message of Governor Coke, February 10, 1874. Warrants outstanding on the general revenue fund amounted on August 31, 1872, to \$544,745.24; on August 31, 1873, to \$679,404.83; on August 31, 1874, to \$628,370.23, and warrants outstanding on the school fund at the latter date amounted to \$104,577.74.

²House Journal, 12th Leg., Second Sess., p. 435. Message of Governor Davis, January 14, 1873. Message of Governor Coke, February 10, 1874.

³Act of March 7, 1874; Laws of 1874, p. 239.

CONCLUSION.

The salient features of the Reconstruction financial period of Texas history are the large growth of expenditures, the great increase in taxation, and the rapid accumulation of a comparatively heavy debt. The finances do not indicate the rule, however, of such venal and pillaging adventurers as infested other southern state with carpet-bag governments. At the same time there was more open abuse of public trust than at any other period of the state's history. An adjutant-general was guilty of defalcation of about \$30,000;¹ the funds of the treasury department were used for a time to abet private ends and its books fell into "reckless disorder;"² petty jobbery existed in supplying state institutions, and bribery was charged on high authority to have been instrumental in securing the subsidy to the International Railroad.

¹House Journal, 13th Leg., p. 34.

²House Journal, 13th Leg., p. 274.

PART VI.
THE PERIOD OF RECOVERY, 1874-1880.

CHAPTER I.

INTRODUCTION.

Richard Coke was inaugurated governor on January 15, 1874, which event marked the political end of the Republican regime and of the Reconstruction in Texas.

Although a tax rate of fifty cents had been imposed since 1871 and bonds had been issued to meet the expense of frontier defence and to cover deficiencies in the ordinary revenues, an empty treasury and a rapidly increasing floating debt confronted the new Democratic administration. There was only \$37,137.00 in the treasury available for general purposes, and the net receipts to accrue from taxes by September 1, 1874, were estimated at \$481,714.00, while the expenditures were estimated at \$1,236,116.00.¹ There were, in addition, claims of school teachers for services rendered prior to July 1, 1873, amounting to over \$400,000.00, an unexecuted cash pension law, and a harassing controversy with the International Railroad over a bond subsidy.

The state's financial problem was difficult, and its solution called for intelligence, courage, and patience. Immediate clarification and settlement were not possible, for though legislation could accomplish something, it was indispensable that there should be time for the recuperation of the industrial and commercial forces which had been depressed by the war, the Reconstruction, and the prostrating panic of 1873. Additional taxation as a way out was inexpedient in view of the already unpopular height of the tax rate, and bonds could not be immediately sold except at an almost prohibitive discount. The means of relief to the treasury which were adopted were the stoppage of payment of warrants dated before January 15, 1874, the use of special trust funds, and the issue of bonds. The treasury did not get on an actual cash basis, however, until the spring of 1879. Each year between 1874 and 1879 saw treasury deficits, the

¹Message of Governor Coke, February 10, 1874.

state's warrants at a discount, the maintenance of the same high tax rate, an increase in the bonded debt to meet the ordinary expenses of government, and parsimony in expenditures for charitable, educational and other developmental purposes.

Industrially a new era began in 1879, as that was the year when there was generally throughout the country a marked upward movement indicating the completion of industrial recovery from the panic of 1873.¹ The population of the state grew from 818,579 in 1870 to 1,591,749 in 1880. This was a percentage of increase during the decade of 94.5 as compared with 35.5 during the preceding decade. Negroes numbered 393,384 in 1880 and constituted 24.7 per cent of the total population as compared with 30.9 per cent in 1870. The population was preponderantly rural, only 8.5 per cent living in towns of 2,500 population and over. The density of population remained small, though there was an increase from 3.1 in 1870 to 6.1 in 1880.

Agriculture engaged 68.8 per cent of the population ten years of age and over employed in all occupations. Agriculture showed a marked improvement in condition in 1880 over 1870. Though the number of farms increased 185 per cent and the acreage in farms increased 97.3 per cent, the percentage increase in the improved acreage was 326.6. A large part of the land area of the state was unoccupied and uncultivated, however, as shown by the fact that the farm area was only 21.6 per cent of the total land area of the state. The vast area of land not in farms was either owned by the state or was privately owned and held as a speculation. The value of farm land and buildings amounted to \$170,468,886 in 1880, which was an increase of 254.2 per cent over 1870. Farm implements and machinery showed an increase of 233.1 per cent, and domestic animals, poultry and bees an increase of 155.7 per cent. The value of livestock was \$60,307,987 in 1880 as compared with \$37,425,794 in 1870.

Agriculture and stockraising were the chief sources of wealth to the state. Mining was negligible, and manufacturing was not advancing in a remarkable way. The number of manufacturing establishments increased only 25 per cent, and the value of the products increased from \$11,517,302 to \$20,719,928 between

¹Noyes, *Forty Years of American Finance*, p. 66.

1870 and 1880. The percentage of growth in the value of the products was 79.9, or less than that in population.

Under the liberal land grant policy which was in effect from 1873 to 1882 railroad mileage grew rapidly. The increase between 1870 and 1880 was from 711 miles to 3,244, and that between 1873 and 1882 was from 1,578 to 6,009.

Statistics for the growth of state banking are not available, but those for the national banking system do not show a rapid growth of that system.¹ The number of national banks increased from 4 in 1870 to 13 in 1880, and their deposits from \$575,000 to \$1,579,000.

A new era also in the state's finances began in 1879, due in no small part to the country's prosperity, but also to a vigorous financial policy. The important features of this policy were the refunding and payment of the public debt, the sale of the public lands, changes in the administration of taxes, the adoption of new business taxes, and reduction in expenditures. The policy adopted in 1879 was known as the "pay-as-you-go" policy, and the most striking, and at the same time the most effective, of the measures relating to expenditures which were adopted to institute this policy was the reduction of the school fund's share of the general revenues from the customary one-fourth to one-sixth. The fiscal operations of the state government during the year 1880 evidence the advent of a new era and the final issuance from the financial slough into which the state entered in 1861.

¹The state banks chartered during the Reconstruction period were supposed to report to the office of the secretary of state, but apparently the law was not obeyed, for the reports of the secretary of state contain statements of only a few banks.

CHAPTER 2.

EXPENDITURES.

The period from 1874 to 1880 was one unusually full of influences conducive to economy in public expenditures. The panic of 1873 cast its shadow of depression over the country until 1879, and this alone warranted the most economical administration of the state's affairs. Other potent reasons for the practice of public economy were the high rate of taxation, the large floating debt and the weakness of the state's credit, the imperative need of putting down internal lawlessness, of protecting the border, and of satisfying the minimum demands of the charitable, correctional, and educational functions of the state.

The Constitution of 1876 reduced the salaries of state officials and judges, and there was also a decrease during this period in the support of the several state departments, the judiciary, and the charitable institutions.¹ The reduction in salaries and

¹The following is a comparison between the salaries stipulated in the constitutions of 1869 and 1876:

	1869	1876
Governor	\$5,000	\$4,000
Supreme court judges, each.....	4,500	3,500
District judges, each	3,500	2,500
Comptroller, treasurer, commissioner of the general land office, each.....	3,000	2,500
Secretary of state, attorney general, each.....	3,000	2,000
Superintendent of the lunatic asylum.....	2,500	2,000
Superintendents of the blind and the deaf and dumb institutes, each	2,000	2,000
Per diem of the members of the legislature....	8	\$5 for the first sixty days and \$2 thereafter.

The appropriation bill for 1880 and 1881 in response to the "pay-as-you-go" slogan made sweeping reductions in the salaries of the employees of the state. The salaries of the chief clerks in the state and treasury departments were cut \$300 each; the salary of the chief clerk in the comptroller's department was pared \$500, that of the governor's private secretary, \$300, and corresponding reductions were made in the salaries of the other employees. See Report of the Special Committee on Retrenchment, February 18, 1879; House Journal, 16th Leg., First Sess., p. 421.

the severe limitations on the debt-creating and taxing powers of the state and local governments reflect the commercial, financial and agricultural depression which followed the panic of 1873. Expenditures on account of sessions of the legislature declined, those for direct promotion of immigration and for the geological survey disappeared, and the share of the general revenues appropriated to the school fund was reduced to one-sixth for the year 1880. The creation in 1876 of the department of insurance, statistics and history, buildings for the Agricultural and Mechanical College, and quarantine against yellow fever were responsible for minor additions to expenditures. The expenditures of this period showed no decrease over those of the preceding period, however, and this was due chiefly to the pensioning of the veterans of the Texas Revolution, to the protection of the frontier, and, above all, to the heavy interest charge of the funded debt and to the payment of debts incurred before January 15, 1874. The pension policy underwent frequent changes. The act of August 13, 1870, had granted \$250 annually to each surviving veteran of the Texas Revolution and an additional \$250 to such as had been wounded, but the appropriation of \$224,817 for their payment in 1871 and 1872 was vetoed by Governor Davis.¹ In 1874 this act was repealed, but the arrearages under it were made payable in 10% bonds, and a new pension act was passed granting an annual pension of \$150 to indigent veterans and an additional \$150 to those who were disabled by reason of wounds received in the service.² This act was in turn repealed in 1875 on the ground that all who were eligible to its benefits had received 10% pension bonds and that the law afforded an opportunity for the perpetration of fraud on the state.³ The Constitution of 1876 authorized pensions not to exceed \$150 per annum to indigent survivors of the Texas Revolution and their unmarried widows.⁴ In 1876 an annual pension of \$150 was granted, but

¹Laws of 1870, Called Sess., p. 119. Laws of 1871, p. 106.

²Laws of 1874, p. 114.

³Act of March 13, 1875; Laws of 1875, p. 112. The comptroller declined in 1874 to issue certificates for pensions because of the indefiniteness of the law in defining indigency.

⁴Art. 16, sec. 15.

it was repealed in 1879 because of the unexpected number of applicants. There was substituted for the cash pension a land grant of 640 acres to each indigent veteran.¹ The land grant measure relieved the treasury of pension expenditures and so assisted in establishing the "pay-as-you-go" policy. Pension bonds authorized in 1874 were issued to the amount of \$1,115,009, and up to March, 1879, \$501,750 interest was paid on them.² Warrants drawn on the treasury on account of cash pensions aggregated \$283,662 for the period, and as \$213,542 of this amount was drawn in 1879, the hasty repeal of the act of 1876 may be understood.

The penitentiary had been leased in 1871 for fifteen years, and as there was no resumption of control during the period the only expense to the state was the conveyance of prisoners and the beginning of the construction of the eastern branch of the penitentiary at Rusk. The conditions existing at Huntsville were described as discreditable to the state, but the increase in taxation which resumption of control would entail was a bogey against which the cry for reform was unavailing.³

The increase of expenditures on account of the protection of the frontier against marauding Mexicans and desperadoes and the interest on the public debt offset any economies effected in other lines. The protection of the frontier was a duty which the United States Government should have performed, and it afterwards reimbursed the state for the expenditures made, but at the time the disbursements were made they constituted an onerous burden. The funding of the floating debt incurred during the Davis and succeeding administrations and the issue of bonds to meet the current needs of the government account for the appearance in 1875 of a heavy annual interest charge. The total of the warrants drawn on the general revenue on account of these two items of expense and its percentage of total warrants drawn were as follows:

¹Act of July 28, 1876; *Laws of 1876*, p. 61. Repealing act, March 13, 1879; *Laws of 1879*, p. 34. Act of April 26, 1879; *ibid.*, p. 175.

²House Journal, 16th Leg., Reg. Sess., p. 807.

³Message of Governor Coke, April 18, 1876. *Galveston News*, April 30, June 3, 8, 9, and 20, 1876. *Laws of 1876*, p. 193.

1874.....	\$222,944	15.1%
1875.....	461,608	35.9%
1876.....	502,408	37.9%
1877.....	581,190	45.2%
1878.....	522,020	45.2%
1879.....	567,312	34.4%
1880.....	432,595	31.7%

CHAPTER 3.

RECEIPTS.

The revenues accruing during this period were of two classes, ordinary and extraordinary: the latter came from the sale of bonds, the former from taxes, fees, interest on investments, and the like. The following table shows the per cent of total net receipts derived from taxes, sale of bonds, and miscellaneous sources:¹

	Taxes.	Bonds.	Miscellaneous.
1874	64.1	29.1	6.8
1875	56.8	32.5	10.7
1876	60.8	26.7	12.5
1877-8 ²	79.5	5.6	14.9
1879	82.6	8.3	9.1
1880	66.7	22.6	0.7

The taxes, in their order of importance, were the general property tax, the occupation taxes, and the poll tax.³

¹It should be remembered that this table does not represent the contributions to the general revenue account only. There were no receipts from bond sales accruing to this account in 1874, 1878, and 1880. The large per cent shown from bond sales in 1880 is due to the refunding operations.

²The receipts for 1877-8 are net receipts, except for the interest received on state bonds held by the special funds, the amount of which was not separately stated in the comptroller's report.

³The reports of the state's financial officers are not so compiled and published as to make it possible to state what proportion of the tax receipts each of the taxes contributed. A rough idea of the proportion may be gained from the statistics of assessed taxes, but the statistics for occupation taxes are especially defective: they are in every instance reported as partial, and those for 1876 are not published. In the case of the general property tax also the assessments are not complete. The following are the amounts and percentages of the several taxes assessed or reported:

Date	Property	Per cent	Occupation	Per cent	Poll	Per cent
1875	\$1,254,354	71.7	\$295,012	16.8	\$198,322	11.5
1876	1,288,246	.....	.....	....	211,134	
1877	1,594,828	.....	385,943	....	464,808	
1878	1,516,122	.....	377,935	....	500,211	
1879	1,519,516	61.3	425,429	17.1	531,778	21
1880	1,594,853	57.4	636,580	22.9	542,603	1

A. The Property Tax.

The scope of this tax remained what it had always been, and it is described in article 8, section 1, of the Constitution of 1876 to be as follows: "All property in this state owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law." The constitution exempted from taxation household and kitchen furniture to the value of \$250 to each family,¹ and empowered the legislature to exempt property used for burial, religious, charitable, educational, and public purposes, and to release from the payment of state and county taxes the inhabitants of counties, cities and towns which suffer a public calamity.²

The act of August 21, 1876, carried out these constitutional permissions.³ It also exempted state pensions, growing crops, notes taken for land, the shares of stock of domestic corporations whose property was taxed by the state, and it provided that only the excess of credits over debits was taxable. The exemption extended to land notes, or mortgages, was repealed in 1879.⁴ In 1873 there were exempted from taxes the residents of the frontier counties of Montague, Wise, Parker, Hood, Erath, Hamilton, Lampasas, Burnet, Blanco, Kendall, Bandera, Medina, Frio, McMullen, Duval, Starr, and all other counties lying west and southwest of these. This exemption was repealed in 1875.⁵ The act adjudicating the controversy between the state and the International Railroad exempted the property of this company from state and other taxes for twenty-five years.⁶

Until 1870 the work of the assessment and collection of the general property tax was confided to one officer—known as the assessor and collector—in each county. The Constitution of 1869 changed this system and provided that the justice of the peace, of whom there were five in each county, should be the assessor of the taxes in his precinct and that the sheriff should

¹The amount exempted under the act of May 2, 1874, was \$50.

²Article 8, secs. 2 and 10; article 9, sec. 9.

³Laws of 1876, p. 275.

⁴Laws of 1879, p. 39.

⁵Laws of 1875, p. 10.

⁶Act of March 10, 1875; Special Laws of 1875, p. 69.

be the collector. This system worked badly: it was uncentralized, expensive, and inefficient. Each justice was paid 5 per cent of the assessed taxes until his commission reached \$1,000, the result of which was that after each one had assessed \$20,000 of taxes, he stopped assessing through lack of inducement to additional work.¹ An amendment to the constitution was proposed and adopted in 1873 which called for a return to the old system of one assessing and collecting officer, and in 1875 this was enacted into law.² This officer was to assess and collect both state and county taxes, was to be elected for four years and was to be paid by fees graduated to the assessed values but with no maximum prescribed. This system was short lived, however, since the Constitution of 1876 ordered a different one. The one laid down in 1876 is the one now in use. It was then provided that for each organized county there should be an assessor of taxes, and in counties having 10,000 or more inhabitants a collector of taxes, each elected to hold office for two years; that in counties having less than 10,000 population the sheriff should be the ex-officio collector.³ The Constitution of 1876 also provided that the taxes on the property of residents of an unorganized county should be assessed and collected by the assessor and collector of the county to which it was attached for judicial purposes, though the taxes on lands in such counties owned by non-residents and lands lying in the territory not laid off into counties should be assessed and collected at the office of the comptroller.⁴

The policy adopted in 1875 of fixing no limit to the compensation which the assessor and the collector might receive was followed throughout this period. The assessor received 5 per cent on the amount of the state taxes assessed and 3 per cent on the amount of county taxes assessed, and the collector received

¹Message of Governor Coke, January 12, 1875. The comptroller's report for 1874 states that the city assessments for Galveston exceeded the state and county assessment for the whole county by \$8,528,424.

²Laws of 1874, p. 234. Laws of 1875, p. 92.

³Art. 8, secs. 14 and 16. Acts of August 21, 1876; Laws of 1876. pp. 255, 259.

⁴Art. 8, sec. 12. Such provision bears witness to the frontier character of a large part of western Texas. In 1876 there were 152 organized counties and 21 unorganized. Comptroller's Report, 1876, p. 67.

liked percentages on the amounts collected. In view of these wide-open limits there was no criticism, such as was urged in the preceding period, that the policy as to compensation failed to make the interests of the officers identical with those of the state. There was also no criticism that this policy resulted in excessive compensation to some officers.

The laws in regard to the place of assessment and collection of taxes are important in their bearing upon the operation of the general property tax. Under the Constitution of 1869 and the legislation thereunder real property could be rendered and the taxes thereon paid either in the county where the property was located or in the county where the owner or agent resided; personal property was assessable where the owner or agent resided.¹ The alternatives here offered opened the way for property to escape assessment, but the poor facilities which existed in the state at this time for making remittances and for transmitting intelligence made rather liberal provisions necessary. The Constitution of 1876 laid down the rule that: "All property, whether owned by persons or corporations, shall be assessed for taxation and the taxes paid in the county where situated, but the legislature may, by a two-thirds vote, authorize the payment of taxes of non-residents of counties to be made at the office of the comptroller of public accounts."² The laws carrying out these provisions, with the exception of unorganized counties, were clear as to the place of taxation of real property, but not as to the place of taxation of personal property, and it remained for the courts to decide that tangible personalty was, like real property, taxable where located; intangible personalty, where the owner resided.³ At first only the lands in unorganized counties and territory and the property of railroad, telegraph, plank road and turnpike companies in unorganized counties were assessed

¹Laws of 1873, p. 124. Laws of 1874, p. 176.

²Art. 8, sec. 11. The provision relating to unorganized counties has been stated.

³*Ferris v. Kimble*, 75 Tex., 476 (1889). Intangible personalty—for example, purchase money notes, which has acquired a situs in the state is taxable though owned by a non-resident; *Hall v. Miller*, 102 Tex., 289 (1909). See also *Jesse French Plano and Organ Co. v. City of Dallas*, 61 S. W. Rep., 942 (1901).

and the taxes collected by the comptroller; but on account of complaints of the hardship of the requirement that non-residents of organized counties should pay only to the collectors of such counties, the law was changed so as to permit payment to the comptroller.¹

Paschal said of taxation in this state during the Civil War and the Reconstruction that it was "another of those subjects upon which legislation, has been feverish, restless, changeable, and almost irreconcilable." This description is particularly applicable to the legislation relating to the delinquent taxes and un-rendered property. Such matters have been the occasion for more kaleidoscopic, voluminous, intricate, and unavailing legislation than any other subject of taxation; and this was especially true of the period 1874-1880. During the periods of the Civil War and the Reconstruction there was a vast amount of property which escaped taxation through non-rendition and there was very much delinquency in the payment of taxes assessed.²

Direct taxation was comparatively unimportant during the periods of the republic and of statehood down to the Civil War, and there was a virtual breakdown of it during the war. It was stringently administered under the military governments, but from 1869 to 1874 the disfavor in which the state government was held strongly disinclined taxpayers to the payment of taxes. There was a tendency after 1875 to overestimate the revenue that would accrue from the collection of the delinquent and un-rendered property taxes which had accumulated.³ But the uncertainty of the records, the doubtful legality of the taxes levied during the Civil War, and the disfavor in which the military government was held, influenced the legislature to take a very liberal, if not coaxing, course with respect to these arrears. Both

¹Laws of 1879, p. 41. In 1876 about 39,000,000 acres were rendered in the counties where situated and about 23,000,000 in counties other than where situated.

²The comptroller in 1874 estimated that more than 35,000,000 acres of land escaped assessment in 1873, and the official estimate of the average annual loss of taxes assessed was 25 per cent. Messages of Governor Coke, February 10, 1874, and January 12, 1875.

³On the basis of 25,000,000 acres of land escaping taxation annually between 1870 and 1876, and valued at \$1 per acre, the back taxes were estimated at \$750,000. It was estimated also that about one-tenth of the taxes assessed were delinquent; Comptroller's Report, 1876.

delinquent taxes and taxes on unrendered property prior to the year 1870 were relinquished, and those before January 1, 1873, were waived if those accruing since the date were paid before proceedings for forced payment were begun.¹ The huge task of compiling the lists of property, delinquent and unrendered, devolved upon the comptroller's office. The work was so slow and the difficulties so many that new legislation was called for in 1879.²

Strangely there was no legislation until 1879 carrying into effect the provisions of the new constitution in regard to the taxation of property in the unorganized counties and territory not laid off into counties, and this was a serious omission. Until 1879 the provisions of pre-existing laws were applied, but as payment by non-residents of such counties and territory could not be enforced, a vast amount of land escaped taxation.³

The provisions adopted in 1876 in regard to enforcement of payment of current taxes were an improvement over those enacted under the Constitution of 1869, but they were not a solution of the vexing problem. The new legislation differed from the old especially in that it did not postpone for so long a period the sale of land for delinquent taxes. Under the old laws the comptroller every five years returned to the counties the lists of delinquents, after which suit in the nature of an action for debt had to be brought in the district court, and if the judgment was in favor of the state, the sheriff proceeded to sell the land or offered it for sale once in each six months.⁴ The new legislation provided for the annual seizure and sale by the collector of property sufficient to pay the taxes, and if there was no individual purchaser, it was bid off to the state.⁵ By article 16, section 50 of the constitution the homestead was protected from

¹Acts of August 19, 1876; Laws of 1876, pp. 214, 255.

²Laws of 1879, p. 161. *Ibid.*, Special Sess., p. 12. By 1882 only about forty counties had been furnished delinquent lists, and even this small result of six years' labor was defective, owing to the inaccuracy of the records from which the lists were compiled. See Act of May 16, 1882; Laws of 1882, p. 39.

³Comptrollers' reports, 1876, 1877-8. It was estimated that not one-fourteenth of the taxes due by non-residents were paid.

⁴Laws of 1871, First Sess., p. 51. Laws of 1873, p. 187.

⁵Laws of 1876, p. 259. Laws of 1879, p. 46. *Ibid.*, pp. 46, 132, and 141. *Ibid.*, Spec. Sess., p. 36.

seizure and forced sale for any taxes except those due on it.¹ In order to ascertain better the unrendered land it was provided in 1879 that the general land office should furnish each assessor with a correct abstract of all the existing surveys of lands in his county and with all new surveys each year.²

The policy of bidding off lands to the state when there were no individual purchasers which had been followed since 1846, except during the period of the Reconstruction, came in for criticism, and the policy of offering continuously such lands for sale until they were sold was advocated.³

There was a change made during this period in the dates for the assessment and collection of taxes for the greater convenience of taxpayers and officers. In 1874 the final date for the rendition of property was changed from April 1 to May 1, but December 1 remained the date of final settlement between the comptroller and the tax collectors.⁴ In 1876 it was enacted that assessment should take place between January 1 and June 1, that collections should begin on October 1 and that taxes should be paid by October 1 or be delinquent.⁵

A frequent complaint met with in this period of the state's financial history, and especially before 1876, is the non-rendition of land. This resulted in inequality of taxation, but the explanation for this escape lay largely in the failure of the law until 1879 to provide for the enforcement of payment of taxes on lands in the unorganized counties. Undervaluation of property and the escape of personalty characterized the period, though it had been hoped that the legislation of 1876 would establish a just system.⁶ The United States Census of 1880 gave the estimated

¹This provision first appeared in the Constitution of 1869. *Wright v. Straub*, 64 Tex., 64 (1885).

²Laws of 1879, p. 24.

³It was estimated that at least four-fifths of the lands offered for sale were bid off to the state; Comptroller's Report, 1876. An act of April 19, 1879, provided for the monthly offering for sale of delinquent lands, but this was repealed in July of the same year, and the old policy returned to; Laws of 1879, p. 118; *ibid.*, Spec. Sess., p. 36.

⁴Laws of 1874, p. 173.

⁵Laws of 1876, pp. 259, 265.

⁶Messages of Governor Coke, January 12, 1875, and April 19, 1876. Message of Governor R. B. Hubbard, January 14, 1879. Comptroller's Report, 1875.

true value of the property in the state to be \$725,000,000. The assessed valuation for 1880, however, was only \$311,470,000, or 41.5 per cent of the true value.¹ In comparing the estimated true and assessed values, allowance must be made for legal exemptions; but these would account for only a small part of the difference.

There was no standard of valuation for taxation of the property of individuals during the Reconstruction period. In 1873 it was enacted that rendition and valuation should be under oath, but the formal oath covered only the completeness of the inventory and the truth of answers touching it. In the event of disagreement over valuation between the assessing officer and the taxpayer each selected an arbitrator and they a third, and the decision of the arbitrators was final. The standard adopted in 1876 was "true and full value," which was the fair cash market value at voluntary sale.² The oath prescribed in 1876 for the taxpayer did not differ from the preceding one, but that required of the assessor in submitting his assessment rolls covered the completeness of the list and the truth and correctness of the valuation. The laws provided for uniformity of assessment, but no adequate provisions were made for carrying them out.

The Constitution of 1876 failed to provide for the machinery that might have prevented flagrant differences among the counties in the percentage of assessed to true values. A new provision in Texas constitutions was section 18 of article 8 of the Constitution of 1876 which reads: "The legislature shall provide for equalizing, as near as may be, the valuation of all property subject to or rendered for taxation, (the county commissioner's court to constitute a board of equalization); and may also provide for the classification of lands with reference to their value in the several counties." It is a matter of speculation whether this verbiage prevents the creation of a state board of equalization with broad powers of equalizing all county values, but the fact is that no such board has been created. The duties of the

¹The census gives \$320,364,515 as the assessed valuation, but this does not agree with the amount reported by the comptroller, and the latter's amount is taken. See Report of the Tenth Census on Valuation, Taxation, and Public Indebtedness.

²Act of August 21, 1876; Laws of 1876, p. 275.

county boards were defined for the first time in 1879.¹ For unorganized counties the board of equalization was composed of the governor, the attorney general, and the secretary of state.²

An explanation sometimes offered for the undervaluation or escape of property—especially for the escape of intangible property—is the high rate of taxation. The weight of taxes on property cannot be understood by looking at the state rate alone, but the rates levied by counties, cities, towns, and other taxing districts must be included. The Constitution of 1876 limited the state tax on property, exclusive of the tax to pay the public debt, to 50 cents on the \$100 valuation.³ The county limit of taxation was fixed in the constitution at 75 cents, except in the case of coast counties which had such additional taxing power as the legislature might confer to construct sea walls, breakwaters, and for sanitary purposes, and except for the purpose of paying county debts incurred before 1876.⁴ The county tax, as limited by statute, however, was fixed at 75 cents, outside of a tax sufficient to pay the interest on the bonds subsidizing railroads and contribute to a sinking fund for such bonds.⁵

The taxing power of towns and cities was so defined in the constitution as to resolve them into several classes. It was provided (1) that no city or town should levy more than one-half of the state rate, except for the payment of debts already incurred and except for the erection of public buildings for which latter purpose a tax not to exceed 50 cents might be levied.⁶ This limited the rate to 75 cents, except for the payment of debts incurred before 1876. It provided (2) that cities and towns having a population of 10,000 or less could be incorporated only by general law, with a tax limit for current expenses of 25 cents; and (3) that cities having a population of more than 10,000 could be incorporated by special act with a tax limit for any and

¹Laws of 1879, p. 44. *I. & G. N. R. R. Co. v. Smith County*, 54 Tex., 1 (1880).

²Laws of 1879, p. 141.

³Art. 8, sec. 9.

⁴Art. 8, sec. 9; art. 11, sec. 7.

⁵Laws of 1876, p. 52; *ibid.*, p. 174. Laws of 1879, pp. 33, 61, 109; Rev. Stats., 1879, art. 1516.

⁶Art. 8, sec. 9.

all purposes of \$2.50.¹ These rates were laid down as maxima. The actual rates which were levied were such as the legislature authorized, and in the case of the specially chartered cities the maximum authorized has not been uniformly \$2.50. The constitution provided (4) that coast cities could levy and collect such taxes as might be authorized by the legislature to construct seawalls, breakwaters, and for sanitary purposes.²

It was also provided in the Constitution of 1876 that the legislature might constitute any city or town a separate and independent school district, but the tax limit was not fixed.³ The statute relating to the subject of independent school districts was ambiguous until 1881.⁴

Throughout the period of 1874-1880 the rate of the property tax for the state purposes, including the common schools, was 50 cents, and one-fourth of the proceeds went to the available school fund.⁵ County rates in 1876 varied from 25 cents in Starr County to \$1.20 in Anderson. The principal burden lay in the city taxes, however, and the total of state, county and city taxes amounted in some instances in 1880 to \$3.00 on the \$100 valuation.⁶ There were no taxes levied in 1880 for schools by the

¹Art. 11, secs. 4 and 5.

²Art. 11, sec. 7.

³Art. 11, sec. 10.

⁴Laws of 1876, p. 209. Laws of 1881, p. 64.

⁵Laws of 1875, p. 243. Laws of 1879, p. 145.

1876.			
County	State Tax	County Tax	
Bexar	\$0.50	\$1.00	5/6
Dallas	0.50	.65	
Galveston	0.50	.73	1/3
Harris	0.50	.40	
Travis	0.50	.50	
1880			
State tax	County tax	Principal city	Total
\$0.50	\$0.85	\$1.00 San Antonio	\$2.35
0.50	0.75	1.75 Dallas	3.00
0.50	0.70	1.50 Galveston	2.70
0.50	.20	2.00 Houston	2.70
0.50	.50	.90 Austin	1.90

The county statistics for 1876 are taken from the comptroller's report for 1876; those for 1880 are taken from the Tenth United States Census.

counties or by school districts. Other minor civil divisions reported only \$1,994 of school taxes.¹ Total state, county and local taxation amounted to \$4,568,716, distributed at follows: state, \$2,188,540; county, \$1,685,907; local, \$694,269.² A rate of \$3.00 on the \$100 valuation is a high direct tax; for, assuming 10 per cent income from property, such a rate is equivalent to a tax on income of thirty-three and one-third per cent. It is to be remembered, however, that evasion and undervaluation reduced this by two-thirds or more, and any opinion of the heaviness of taxation during this and the preceding period as well should be formed in the light of facts known to exist regarding undervaluation and evasion. For those, however, who could not or who would not evade or undervalue the rates were burdensome.

Between 1874 and 1880 expenditures increased 47.6 per cent; assessed values, 27.3 per cent. The high mark of assessed values was reached in 1877 when they were \$319,373,000 as compared with \$244,510,000 in 1874 and \$311,470,000 in 1880; but partly because of a relapse of financial depression and partly because non-residents of organized counties secured lower assessments through their appointed agents, assessed values fell off over \$16,000,000 in 1878.³ Taxation was not sufficient to prevent annual deficits in the general revenue account, and there were bond sales for the benefit of this account in 1875, 1876, 1877, and 1879. More efficient methods of administration of the property tax would have rendered unnecessary bond sales to meet the current ordinary expenditures. A special interest tax of 15 cents was urged by the house finance committee in 1876, but it was opposed by the governor.⁴ A state tax rate of 65 cents is high, but in view of undervaluation this would have been only the nominal rate. It is probable that if the additional tax had been levied, the credit of the state would have been better.⁵

¹Tenth Census of the United States, 1880. Vol. Valuation, Taxation and Public Indebtedness, p. 25.

²Ibid.

³Comptroller's Report, 1879-80.

⁴Letter of Governor Coke to A. C. Gray, November 27, 1876.

⁵Galveston News, July 12 and December 7, 1876.

B. Business Taxes.

Under business taxes are included the general property tax modified in administrative details to suit the special conditions of business, the ordinary occupation taxes, and the special occupation taxes.

At the close of the Reconstruction period a somewhat centralized method existed of taxing by the general property tax the property of railroad and telegraph companies. Their property was required to be rendered to the justice of the peace of the precinct where the principal office was located, and the lists were then forwarded to the comptroller for his approval or disapproval. Incorporated cities and towns certified their tax rates to the comptroller, and the taxes might be paid to him, though payment to him was not mandatory.¹ The Constitution of 1876 reversed this modified employment of the unit method of assessment, and provided that such corporate property should be assessed and the taxes collected in the several counties where it was situated.² Exceptions to this rule were and are (1) that the property of railroad, telegraph, plank road and turnpike companies in unorganized counties shall be assessed and the taxes thereon collected at the comptroller's office, and (2) that the rolling stock of a railroad company shall be assessed in gross in the county where the principal office is located and the value so assessed shall be apportioned by the comptroller among the counties on the basis of the proportion of the mileage of the road in each county to the total mileage of the road in the state, the taxes being collected by the county collectors. A wholly decentralized method of taxing these complicated properties was thus fastened upon the state, and the results compare unfavorably with those under the preceding method.³

¹Act of April 30, 1874; Laws of 1874, p. 175.

²Art. 8, sec. 8.

³Act of August 21, 1876; Laws of 1876, p. 275.

Year	Miles	Total value	Assessed average value per mile
1874	1409	\$17,514,000	\$12,430
1875	1487	16,605,000	11,167
1876	1493	16,577,000	11,103
1877	1781	15,040,000	8,445
1878	1929	15,229,000	7,894
1879	1958	14,817,000	7,562

Banking was the other business for which special rules of assessment were laid down. Under the Constitution of 1869 state banks could be incorporated, but the Constitution of 1876 returned to the policy which prevailed from 1846 to 1870 of prohibiting the establishment of state banks. National banks, private banks, and state banks chartered between 1870 and 1876 were the banking institutions in the state. They were taxed on their real property, tangible personalty, money, credits and securities, less deposits, accounts payable, and such bonds or other securities as were exempt by national or state laws. The shares of stock of national banks in the state were taxable to the holder.

Occupation taxes were of two kinds; namely, what may be called ordinary, or general, and special. The Constitution of 1876 empowered the legislature to impose occupation taxes, except upon persons engaged in mechanical and agricultural pursuits, but all such taxes had to be equal and uniform upon the same class of subjects within the limits of the authority levying the tax.¹ The occupations which were taxed were numerous, but they were the same in general as those taxed in 1873. Occupations called useful as well as those which popularly are not so considered were taxed. Those on merchants and on liquor dealers were the important taxes which were heavily increased.² In some instances the taxes were intended to be prohibitive, as, for example, those of \$1,000 on nine or ten-pin alleys and of \$200 on fortune tellers. The taxes on merchants were roughly classified according to the amounts of purchases, and in the case of a number of occupations, such as photography, and dealing in stocks and bonds, classification was based on population of the town or city. The rates which counties, cities and towns could levy were limited by the constitution and the statutes to not more than one-half of the state rate, but in the case of some occupations, as for example,

¹Art. 8, secs. 1 and 2.

²The taxes imposed on retail liquor dealers by the acts of 1873 and 1876 were upheld as constitutional in *Harris v. State*, 4 Tex. Crim. App., 131. The tax on lawyers was upheld in *Lanquille v. State*, 4 Tex. Crim. App., 312 (1878). See also *ex-parte Williams*, 18 Tex. Crim. App., 262 (1892).

lightning rod dealers and sewing machine dealers, the rates were specified.

The occupation tax measure which is the most celebrated of any in the annals of the state was passed in this period. It has gone down in history as the Bell Punch Law, and applied to the sale of liquors. According to it, all dealers in spirituous, vinous, and malt liquors in quantities less than a quart were required to pay a specific occupation tax of \$250 per annum, when only malt liquors were sold a tax of \$25, and a tax of two cents on each drink except malt, for which the tax was one-half cent, sold or drunk on the licensor's premises. The seller was required to have two registers, one marked "Alcoholic," the other "Malt," and each register was provided with a bell which was struck at each revolution of the crank, and with a device which registered upon the face of the machine the number of revolutions of the crank. The registers were furnished by the state at \$10 each. The sale of each drink had to be registered in the presence of the purchaser, and it was unlawful, and punishable by a fine, for any person to pay for a drink until it had been registered. Penalties were prescribed also for failure to pay the tax, for failure to turn the crank, for any willful injury to the register, for any counterfeiting of the register, and so on. The tax collector visited each licensor once a month and collected the tax. One-third of the net collections in each county accrued to the county. Incorporated cities and towns could levy a tax of one-fourth of one cent on spirituous and vinous, and one-eighth of one cent on malt, drinks sold.¹ The law proved to be a failure and was repealed in 1881.

Another celebrated occupation tax enacted in 1879 was the drummers' tax. It amounted to \$200, but it was not imposed on those soliciting for houses which had paid the merchants' occupation tax of \$200, an exception which obviously worked an injustice on the smaller houses. This tax, in so far as it

¹Act of April 3, 1879; Laws of 1879, p. 71. The idea of this tax appears to have been borrowed from Virginia; message of Governor Roberts, January 21, 1879. Constitutionality upheld in *Albrecht v. State*, 8 Tex. Crim. App., 216 (1880).

applied to citizens of other states, was declared an unconstitutional interference with interstate commerce.¹

An important change in the administration of occupation taxes was made in 1879. Until 1879 collectors were charged on the books of the comptroller's office with only such taxes as they reported collected, and there was considerable laxity in reporting collections. By the system adopted in 1879 the collector was charged on the comptroller's books with an allotment of occupation tax receipts, on which the amounts of the taxes were printed, and he was responsible for the value of all not returned. Loopholes still existed, however, for defrauding the state.² Certain of these taxes, namely, those on sewing machine canvassers and clock peddlers, were, without any apparent reason, made payable directly to the comptroller.

The description "special occupation taxes" is applied to those paid chiefly by corporations. At the beginning of this period, life, fire, and marine insurance companies were the only ones of the great modern corporations subject in this state to a special occupation tax. By the end of the period, however, and as a result of the tax measures adopted in 1879, not only were these companies, but gas, telegraph, express, sleeping and dining car, and railroad companies were so taxable. Complaints that the general property tax was not suited to reach the tax-paying ability of insurance, transmission and transportation companies were not heard to any extent during this period, and between 1873 and 1879 corporations were singularly free from the special taxation which had made its appearance in the preceding period.

In 1873 the occupation tax payable to the state by a life insurance company was \$500, that payable to each county, \$10; fire and marine companies each paid \$200 to the state and \$5 to the county. In 1876 the tax on the life companies was reduced to \$200, but it was increased in 1879 to \$300, and the county tax of fire and marine companies was doubled. In 1879 a state occupation tax of \$50 was imposed on gas companies

¹Ex-parte Stockton, 33 Federal Reporter, 95 (1887).

²The practice was reported of collectors issuing memorandum receipts; Comptroller's Report, 1881-2.

and one of \$750 on express companies, but \$250 of the latter amount was apportionable among the counties on the basis of the business done in each. On telegraph companies there was imposed in 1879 a tax of one cent for each full rate message sent and one-half cent for every message sent at less than full rate; and on the gross receipts derived within the state from passenger travel of railroads, steamboats, and stage coaches, a tax of one per cent was levied.¹ Two different measures taxing sleeping and dining car companies were passed in 1879: the first taxed them at the rate of \$2 per mile of railroad in the state over which their cars ran; the second imposed an ad valorem tax of one-half of one per cent on the value of cars owned or assigned for use in the state.² All of these taxes were payable directly to the comptroller. The tax upon sleeping and dining car companies exempted them from all other taxes. No county or city could employ the occupation taxes imposed on telegraph, railroad, steamboat and stage coach companies. As compared with present day occupation taxes on such corporations, these taxes, with the exception of the tax on the gross receipts from passenger travel, were mere bagatelles.

A very marked extension of occupation taxes took place, as shown above, in 1879. Financial needs rendered some increase in taxation desirable, and the argument for the extension of the occupation taxes was chiefly that the ad valorem property tax did not reach the ability of those engaged and that this failure was to the prejudice of the interests of the agricultural class.³ Occupation taxes constituted 22.9 per cent of the assessed taxes in 1880, as compared with 16.8 per cent in 1875 and 17.1 per cent in 1879. The taxes on liquor amounted to 50.1 per cent of the total occupation taxes in 1880, and the special corporation taxes constituted only 4.3 per cent of the total. The receipts

¹This tax was urged by Governor Roberts in a special financial message, January 29, 1879.

²Laws of 1879, Spec. Sess., p. 39. Galveston News, June 15, 1879.

³Inaugural address of Governor Roberts, January 21, 1879. The justification for the passenger tax urged by the governor was the theoretically unsound one that the state provided protection to travelers.

from corporation taxes would have been larger had not the Western Union Telegraph Company contested the law applying to it on the ground that it taxed interstate messages, and this contention was sustained by the Supreme Court of the United States.¹

C. The Poll Tax.

Section 1 of article 8 of the Constitution of 1876 provides that "the legislature may impose a poll tax", and section 3 provides that "there shall be set apart annually a poll tax of \$1 on all male inhabitants in this state between the ages of 21 and 60 years, for the benefit of the public free schools." The age limits were the same as had been adopted for the tax of the preceding period. Until 1876 the tax was \$1, one-fourth of the proceeds of which went to the available school fund, but in 1876 the tax was increased to \$2, \$1 of which was for the school fund and \$1 for the general revenue fund. The only persons within the taxable age limits who were exempt were Indians and the insane. In 1879 the blind and persons who had lost the use of one or both of their hands or feet were added to the exempted class. There was great laxity in the payment of the poll tax, real estate owners being practically the only ones who paid it.² The attempt was made in 1879 to have an amendment to the constitution submitted which would make the payment of the tax prerequisite to voting. The joint resolution proposing this passed only the house of representatives, and it would have been lost there if the negro member from Brazos County had not changed from the opposition upon being assured that the people would have to vote upon it before it could be adopted.³ It was provided in 1879 that real and personal property should be liable for all state and county taxes, including the poll tax.⁴ As show-

¹Western Union Telegraph Company v. State of Texas, 105 U. S., 560 (1881). See also 55 Tex., 314 (1881).

²Houston Daily Telegraph, January 29, 1875. Inaugural address of Governor Roberts, January 21, 1879.

³Galveston News, March 14, 1879.

⁴Laws of 1879, p. 46.

ing the amount of evasion, the total polls assessed in 1881 were 287,723 as compared with a census male population within the taxable age limits of 356,627 in 1880. As the insane, blind, prisoners and those in almshouses of both sexes and all ages numbered only 4,788, exemption does not begin to explain the difference between the number assessed and the number assessable. The showing for the tax is worse when to evasion through escape of assessment, there is added evasion through failure to pay the tax assessed. In 1881 the percentage of non-payment of the tax assessed was 32.1.

D. Miscellaneous Receipts.

Miscellaneous receipts were mainly from fees, interest on investments, and land sales.¹ The bulk of the fee revenues came to the general land office for work done by it in connection with the administration of the public lands. The fees collected by the other departments of the state government were insignificant. There were no corporation charter fees imposed before 1879, but in that year fees of \$100 for railroad, telegraph, and street railway charters, \$25 for charters of other business corporations, and \$5 for charters for other than business corporations were fixed and made payable to the secretary of state.²

The amount derived from interest on investments was a growing one. The interest from investments which constituted a net addition to the state's revenue was derived from the railroad bonds held by the school fund and the United States bonds and land notes held by the school, university, and asylum funds. The Constitution of 1876 limited the investment of the special funds to United States and Texas bonds. The former were to be invested

¹The proceeds of land sales by permanent funds, such as the permanent school fund, are not included among receipts along with taxes, fees, interest and the like, but are separately stated. Such permanent funds are of the nature of capital accounts, their receipts from lands being subject only to investment and reinvestment in bonds, the interest alone on such investments being applicable to current expenditures. There was no division of the university fund into an available and a permanent fund which makes it necessary to include its receipts from lands among other revenues of an active character.

²Laws of 1879, p. 12.

in only when State of Texas bonds were not obtainable, whereas under the Constitution of 1869 only United States bonds could be invested in.¹ The refunding operations of the national government during this period made state bonds more desirable than Federal bonds, their interest being higher and their premium being lower.

¹Art. 8, secs. 4, 9, and 11.

CHAPTER 4.

PUBLIC LANDS.

The legislation of April, 1874, provided for the sale of the school, university and asylum lands.¹ Preference in purchase was accorded actual settlers, they being given six months from the date of the act within which to make application to purchase. Settlement on the asylum and university lands was required within six months, and on the school lands within twelve months. It was provided that if the university lands were not purchased by actual settlers they should be open to purchase by non-settlers. The maximum amount of land purchasable was 160 acres, except that there was no limit to university lands purchasable by persons who were not actual settlers. The minimum purchasable was 80 acres, except that it was 160 acres for purchasers of university lands who were not actual settlers. The minimum value placed on all the lands was \$1.50 an acre, and appraisal of their value by local commissioners was prescribed. One-tenth of the purchase price was payable down, the remainder in installments of one-tenth, with interest at 10 per cent. The acts of 1874 providing for the sale of the school, university and asylum lands were in effect until 1879.

While the laws contemplated sale to actual settlers, they were not drawn so as to insure this. They were otherwise defective.² Purchasers were able to enter into possession of land by making a first payment, and often valuable timber lands belonging to the school fund were stripped and abandoned before purchase was completed.³

The public land not held by the special funds and which was vacant and unappropriated was not on the market before 1879, but was open to homestead, railroad, and other scrip claimants. Throughout this period each head of a family without a homestead was entitled under the usual conditions of three years

¹Laws of 1874, pp. 72, 142, 146. Laws of 1876, p. 75.

²Land Office Report, 1877, p. 3. Ibid., 1878, p. 3. Ibid., 1896-8, p. 15.

³Ibid., 1878.

settlement and payment of fees to 160 acres, each single man to 80 acres of public land.¹ New railroads received grants at the rate of sixteen sections per mile.² Grants were made somewhat liberally, it not wastefully for the improvement of rivers and bayous, and for the construction of canals and ditches.³

The Constitution of 1876 (Art. 14, sec. 4) prohibited the sale of certificates of land at the land office except to actual settlers, and the amount purchasable was limited to 160 acres. The Revised Statutes of 1879 (Art. 3924) granted to the actual settler the right to purchase up to 160 acres, but the right of preemption could not be acquired by one who has already the owner of land.⁴

1879 ended the purely developmental policy of administering the unappropriated public lands. The unappropriated lands in the Panhandle counties and scrap lands in organized counties were appropriated, first, to the amount of 3,050,000 acres to the erection of a state capitol; second, to the payment of the public debt; and, third, to the increase of the endowment of the school fund.⁵ The minimum price fixed on these lands was fifty cents an acre. This price while not too little at the time for the land on the frontier was below the value of the scrap land.⁶ The land legislation of 1879 shows small results until after 1880. The receipts under the fifty cents act were only \$5,718.77 up to September 1, 1880.

The receipts from sales of land belonging to the school, university and asylum funds were:

1874	\$ 1,572.46
1875	39,843.89
1876	125,546.78
1877-8	203,745.89
1879-80.....	254,241.89

Total.....\$624,950.91

¹Constitution of 1876, art. 14, sec. 6. Laws of 1876, p. 197.

²Constitution of 1876, art. 14, sec. 3. Laws of 1876, p. 153.

³Laws of 1874, p. 169. Ibid., p. 185. Laws of 1875, p. 22. Ibid., p. 77.

⁴Sayles, op. cit., p. 297. Gambrell v. Steele, 55 Tex., 582 (1881).

⁵Constitution of 1876, art. 16, sec. 57. Laws of 1879, pp. 9, 11. Laws of 1879, Spec. Sess., p. 48.

⁶Land Office Report, 1879-1880.

Over one-half of the receipts, or \$322,450, was from sales of university lands set apart in 1839 and lying in Callahan, Collin, Cooke, Fannin, Grayson, Hunt, Lamar, McLennan, and Shackelford counties.

CHAPTER 5.

SCHOOL AND UNIVERSITY FUNDS.

During this period there existed the same division of the school fund into a permanent and an available fund which had been made in 1870. The principal of the bonds and other funds and the principal of the proceeds from the sale of school lands constituted the permanent fund; the interest on the investment of the permanent fund and a share of the taxes made up the available fund, and was the amount which was applicable annually to the support of the public free schools.¹ These funds could not be appropriated to any other purpose. The Constitution of 1869 set apart to the school fund the lands and other funds theretofore given to it, the proceeds of all public land sales, one-fourth of the annual revenue from general taxation, and the full revenue from an annual poll tax of \$1.² The Constitution of 1876 gave to it the "funds, lands, and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the state out of grants heretofore made or that may hereafter be made to railroads or other corporations of any nature whatsoever; one-half of the public domain of the state." This was constituted the permanent fund and the income from it and "not more than one-fourth of the general revenue of the state, and a poll tax of \$1" was defined to be the available fund.³

The permanent fund had in bonds and cash on August 31, 1874, \$2,563,313; on August 31, 1880, \$3,542,126. Included in these amounts were \$402,535 of state bonds of doubtful validity and the railroad bonds without any deduction of the sinking fund. The increase between 1874 and 1880 was due principally to the sales of school lands and to the recovery in 1876 of some of the United States bonds which had been taken from the fund during the war and put at the disposal of the Military Board. The bonds were sold for \$339,240, which amount less commis-

¹Constitution of 1876, art. 7, sec. 5.

²Art. 9, sec. 6.

³Art. 7, secs. 2 and 3.

sions of \$39,216 on contracts for recovery, netted \$300,023. Neither the permanent fund nor the available fund benefited to any large extent from the public lands. The total receipts to the permanent fund from land sales were during the six years ending August 31, 1880, only \$251,089, while the available fund received as interest on land notes only \$61,695. Nothing was derived from the lease of school lands, but the millions of acres belonging to the fund afforded free pasture to vast herds of cattle. In 1879 a rental of \$25 per section was fixed for any one enclosing any of the public lands and using them to the exclusion of the public; but this barely touched the policy of "free grass."

Until 1880 the available fund received the maximum share of one-fourth of the general revenue. The continuous deficits in the general revenue fund resulted in 1879 in an agitation which charged the school fund as the cause of the deficit, and a decided effort was made in the regular session of the Sixteenth Legislature to reduce the share during 1880 and 1881 to either one-sixth or one-eighth of the revenues.¹ Neither branch of the legislature was willing to meet the public with such a reduction, however, and it remained for the governor to veto the item appropriating one-fourth. At the special session though, in 1879, one-sixth of the ad valorem and occupation tax receipts was appropriated.² It was contemplated, of course, that this reduction should be only temporary.³

The per capita apportionments from the available fund were as follows:

	Total.
1874	\$1.95—\$499,800
1875	1.59
1876	1.47
1877	2.82
1878	4.50
1879	4.25
1880	3.00—\$679,317

¹Message of Governor Roberts, January 29, 1878.

²Laws of 1879, p. 44.

³The deficiency argument was joined with the appeal to popular prejudice that the school system was a child of the Reconstruction era. See *Galveston News*, March 18, 20, 21, and 30; April 11, 19, and 24; and May 7, 8, and 15, 1879.

There were warrants outstanding against the available fund on August 31, 1874, of \$104,577; on August 31, 1875, of \$384,838, and there was also a large unascertained amount of unaudited claims of school teachers for services rendered prior to July 1, 1873. In 1874 \$400,000 of the available fund not otherwise appropriated was appropriated to the payment of the teachers' claims, and it was provided that teachers' warrants registered by the comptroller should draw 8 per cent interest or should be fundable into school bonds.¹ No school bonds were authorized, and these claims dragged on. The Constitution of 1876 provided that the legislature should either pay or fund them, and by the bond act of July 6, 1876, their payment out of the proceeds of the bond sales was authorized.² The amount paid on their account was through 1883, \$404,536, and an additional appropriation of \$15,000 was made in 1883. Claims continued to appear long after this date.

Little support from the general treasury was given to higher education during this period. The Constitution of 1876 called for the establishment as soon as practicable of a state university and of a branch university for the instruction of negroes, but provided that no tax should be levied and no money appropriated out of the general revenue, either for the university for negroes or for buildings for the University of Texas.³ It called for an immediate appropriation of \$40,000 for the completion of the buildings and the furnishings of the Agricultural and Mechanical College.⁴ Provision was made in 1876 for the establishment of a negro agricultural and mechanical college, but in 1879 this project was replaced by one for a negro normal school. The Sam Houston Normal Institute for whites was provided for in 1879. The support of the negro normal, \$6,000 a year, devolved upon the university fund; the support of the white normal, \$14,000 a year, upon the available school fund. Nothing was done towards the establishment of a state university. The Constitution of 1876 repealed the valuable grant made to the Uni-

¹Laws of 1874, p. 149.

²Constitution of 1876, art. 16, sec. 36. Laws of 1876, p. 40. Comptroller's Report, 1875. Message of Governor Coke, April 19, 1876.

³Art. 7, secs. 10 and 14.

⁴Art. 7, sec. 13.

versity of one-tenth of the alternate sections of lands donated to railroads by the act of 1858, but gave one million of the unappropriated lands as a substitute land endowment. The new lands given were located in the western part of the state and were not as valuable as the lands taken away.¹ Suit was also brought during this period which resulted in the loss to the university fund of valuable land in McLennan County.

Though the state itself was doing little for education, the counties and minor civil divisions were doing nothing. There was no taxation by school districts, and only \$1,994 of local school taxes were collected in 1879. At the same time 24.1 per cent of the population ten years of age and over was unable to read, and 29.7 per cent was unable to write. The negro element was responsible for these large percentages, as 75.4 per cent of the negroes ten years of age and over was unable to write, while the percentage for the whites was 15.3.²

¹Message of Governor Roberts, April 6, 1882.

²Tenth Census of the United States. Vol. Population, p. 919.

CHAPTER 6.

PUBLIC DEBT.

The public debt constituted the liveliest of the period's financial problems. When the Coke administration succeeded the Davis on January 14, 1874, the general revenue account was confronted with estimated demands of \$1,236,116 before the end of the fiscal year and with estimated receipts from taxes of only \$481,714. The amount of cash in the treasury was only \$36,173, and there was owing to the available school fund for its share of the general revenue about \$60,000. The available school fund was in an equally critical condition; its balance on hand was \$157,603, but this was below its requirements, and the fiscal year closed with warrants outstanding, or a deficit, of \$104,577, and with unaudited claims of school teachers for more than \$400,000. State warrants were hawked about for sixty and seventy cents on the dollar, reflecting the low ebb of the state's credit.¹

There were three courses open for meeting the exigency; namely, the levying of a sufficient tax to pay the outstanding floating debt, the sale of bonds, or the funding of the floating debt. The course favored by the governor was to cut off the warrants issued before January 14, 1874, from payment out of the current revenues and to fund them. All three expedients were resorted to. By the act of March 4, 1874, the issue of bonds to the amount of \$1,000,000, bearing 7% interest and payable thirty years from January 1, 1874, was authorized, and it was provided that their proceeds should be applied exclusively to the payment of warrants drawn between January 1, 1866, and January 15, 1874, and of warrants since drawn on account of indebtedness incurred between these dates.² Such warrants could be registered and draw 8% interest, and were receivable at par in payment for any bonds of the state. The

¹Message of Governor Coke, February 10, 1874.

²Laws of 1874, p. 14. The original act did not specify in what kind of money the interest and principal should be payable, but two amendatory acts stipulated gold.

bonds authorized were sold to private investors in 1874 and 1875 at 85 and 86 cents on the dollar. The gross amount realized was \$851,465, which, less selling commissions of \$17,029, netted \$834,436.¹

In addition to the above issue, there was authorized the sale of \$400,000 of the frontier defense bonds, as the 7% 20-40 year bonds of the act of August 5, 1870, were called, and \$500,000 of the 7% 20 year revenue deficiency bonds of the act of December 2, 1871.² The proceeds of the sale of these two bond issues were applied to the payment of Williams and Guion, of New York, with whom one hundred and fifty of the bonds had been hypothecated by the Davis administration, and the balance was turned over to the general revenue fund. These bonds were sold to private investors, the frontier defense ones bringing from 85 to 92.5 cents on the dollar, the revenue deficiency ones from 85 to 95 cents. The gross amount realized from the \$900,000 sale was \$799,671; commissions of \$15,993 were paid, leaving \$783,678 net. By the three 7% bond sales authorized by the two acts of March 4, 1874, a total of \$1,900,000 was added to the bonded debt: the gross amount received was \$1,651,137, or an average of 86.9 cents on the dollar; commissions paid at the rate of 2% amounted to \$33,032; the net amount received was \$1,618,114, or 85.1 cents on the dollar.³ The net proceeds of the sales were disposed of as follows: \$607,357 to the payment of warrants on account of indebtedness incurred prior to January 15, 1874, excluding the warrants outstanding against the available school fund; \$354,562 to Williams and Guion; \$653,752 to the general revenue fund to meet current expenses; and \$2,665 to legal expenses, express charges and miscellaneous.

The addition to the public debt made by the above bond issues is unquestionably chargeable in large measure to the Reconstruction administration. There has been a disposition to charge to it also the large bonded debt incurred on account

¹House Journal, 15th Leg., p. 166.

²Laws of 1874, p. 16.

³House Journal, 16th Leg., Reg. Sess., p. 803. The proceeds were in depreciated greenbacks. In gold the net proceeds were equivalent to \$1,451,842. Galveston News, April 20, 1876.

of pensions. The legislature of 1870 granted very liberal pensions to the veterans of the Texas Revolution, but Governor Davis vetoed the items in the appropriation bill for 1871 and 1872. By an act of April 21, 1874, the pension act was repealed and it was provided that all arrearages of pensions due under the act up to July 1, 1874, should be paid in state bonds, bearing 10% interest, payable 20 years after date, but redeemable at the pleasure of the state within five years.¹ By 1879, \$1,115,009 of the pension bonds and \$18,610 of certificates convertible into bonds were outstanding, making a total debt on this account of \$1,133,619.

The funding of the floating indebtedness was also resorted to as a means of relieving the pressure upon the treasury. The act of May 30, 1873, which authorized the issue of one-half million dollars of 10% funding bonds, was amended so as to provide for bonds of denominations other than \$100, for coupon instead of registered bonds, and for funding the interest on warrants as well as the warrants themselves.² There were \$89,800 of the 1873 bonds outstanding on August 31, 1874, and their exchange for the new issue was authorized, and all but \$4,400 were exchanged. New bonds to the amount of \$413,600 were issued, making a total outstanding on August 31, 1876, of \$503,400.³ These bonds were payable ten years after January 1, 1874, but were redeemable at the pleasure of the state at any time after three years from their date.

The important feature of debt legislation in 1875 was the settlement of the International Railroad bond subsidy controversy. The question of the subsidy was reopened by the legislature immediately upon convening in 1875 by the introduction in the senate of a bill which would limit the subsidy to \$3,000,000. This bill passed the senate by the narrow vote of 14 to 12.⁴ In the house of representatives there were amend-

¹Laws of 1874, p. 117.

²Act of May 2, 1874; Laws of 1874, p. 207.

³Warrants received for funding aggregated for the years 1874, 1875, and 1876, \$505,985.45; cash received in order to make even amounts of bonds, \$1,190.98. There were also martial law certificates to the amount of \$2.813 received in the collection of taxes and canceled.

⁴Senate Journal, 14th Leg., Second Sess., pp. 104, 155, 204, 217, and 226.

ments made which would require the company to purchase \$320,000 of state bonds and to pay annually 2% of its gross earnings until the payments with other taxes should equal the principal and interest of the subsidy bonds.¹ The senate concurred in the amendments and the bill went to the governor.² There was a feeling of uncertainty as to what the governor would do, but it was settled shortly by his veto.

Western Texas took a vital interest in the construction of the road, which caused strong resentment to be expressed against the legislature and the governor, and the old talk of dividing the state to be revived.³ Consideration of the interests of the western section and of the railway company led finally to a settlement of the controversy whereby the company received twenty sections of land per mile of road and exemption from all state, county, city, and other taxes for a period of twenty-five years.⁴

The possession of a vast public domain thus enabled the state to escape a public debt in aid of internal improvements which would have proved very burdensome at this time in its financial history. To guard against a debt of this character in the future the Constitution of 1876 forbade the legislature "to give or to lend, or to authorize the giving or lending, of the credit of the state in aid of, or to, any person, association or corporation, whether municipal or other; or to pledge the credit of the state in any measure whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever."⁵ The Constitution

¹House Journal, 14th Leg., Second Sess., pp. 380, 406, 407, 415, 422, 436.

²Ibid., p. 487. The reasons given for the veto were (1) that if the intention of the bill was to use the proceeds of the state bond purchases by the railroad company to pay the interest on the subsidy bonds, the bill required a two-thirds majority; (2) that the payment annually of 2 per cent of the gross earnings was a mere pittance as compared with the interest on the bonds; (3) that the people were over-taxed; and (4) that the original act was unconstitutional.

³San Antonio Daily Herald, March 3, 6, and 8, 1875. The governor was bitterly assailed as a "time server" and as being entitled to the "ineffable scorn and loathing of the people of Western Texas."

⁴Senate Journal, 14th Leg., Second Sess., p. 503. Special Laws, 1875, p. 69. The International Railroad became later the International and Great Northern.

⁵Art. 3, sec. 50.

of 1869 did not contain such a prohibition, nor did it put any limit on the debt creating power of the legislature, except that it should provide adequate means for the payment of current interest and a 2 per cent sinking fund.¹ The Constitution of 1876, however, did not enjoin any sinking fund, but it limited the debt which might be created at any time to supply casual deficiencies in the revenue to \$200,000, and confined the creation of debt to this purpose and to repel invasion, suppress insurrection, defend the state in time of war, and pay pre-existing debt.²

The maturing of bonds in 1876 and 1877, the desirability of replacing bonds bearing 10 per cent interest with bonds bearing lower interest, the existence of floating claims of long standing, and the persistent recurrence of deficiencies in the ordinary revenues, made necessary some debt legislation in 1876. The act of July 6, 1876, authorized the issue of \$1,675,000, 6 per cent gold bonds, payable thirty years from July 1, 1876. It was provided that \$800,000 should be coupon bonds, \$875,000 registered, and that none should be sold below par.³

The disposition of the proceeds of the issue was stipulated in the act. The holder of any of the claims for the payment of which the act provided was authorized to exchange them for bonds at the current market value of the bonds, but at not less than par. In order to aid the floating of this issue, the legislature authorized first the sale of the United States bonds held by the permanent school fund and the investment of the proceeds in state bonds, and, second, the investment of certain funds of the Agricultural and Mechanical College in state bonds. The legislature required the investment of the proceeds of the sale of university lands in the bonds.⁴

¹Art. 12, sec. 23.

²Art. 3, sec. 49.

³Laws of 1876, p. 40. This legislation was recommended by Governor Coke in his message of April 19, 1876, and the bill was reported by the house finance committee, May 30, 1876; *Galveston News*, May 31, and July 1, 1876.

⁴Laws of 1875, pp. 38, 44, 216, 283. A minority of the house finance committee dissented against the bill to sell the United States bonds on the ground that it consulted only the exigency of the state treasury; *Galveston News*, July 4, 1876. The sale was a fortunate one, however, for they were sold at a premium of \$81,741, which premium would have been lost because the bonds were called for payment by the United States Treasury on December 1, 1876.

By August 31, 1880, \$1,647,000 of the 6 per cent bonds had been issued, and this remained the total amount except for \$1,000 added in 1881-2.¹ The bonds were sold as follows: \$500,000 to the American Exchange National Bank of New York at 102½; the balance, or \$1,147,000, to the special funds, the permanent school fund taking \$945,000, the university land sales fund, \$167,000, and the Agricultural and Mechanical College fund, \$35,000. The special funds paid par for all bonds purchased, except that the university fund paid for 45 and the permanent school fund for one at the rate of 102½. The total realized on the \$1,647,000 was \$1,660,650, or a premium of \$13,650.² The proceeds of sale were disposed of as follows: \$100,000 in 1876 and \$101,125 in 1877 to the general revenue fund to meet ordinary deficiencies; \$19,999.92 in payment of 10 per cent warrants issued prior to January 28, 1861; \$59,797.84 in payment of certificates of debt issued by the auditorial boards of 1866 and 1871; \$45,280 in payment of interest on state bonds held by the Agricultural and Mechanical College; \$42,721.29 in payment of warrants outstanding on the general revenue fund; \$376,223 in payment of warrants drawn in favor of school teachers for services prior to July 1, 1873; \$279,000 in payment of 10 per cent revenue deficiency bonds due July 1, 1876; \$125,000 in payment of the 6 per cent Throckmorton bonds due January 1, 1877; \$503,400 in payment of the 10 per cent funding bonds of 1873 and 1874, retireable at pleasure on and after January 1, 1877. The total of the proceeds thus disposed of was \$1,652,547.³

This bond issue represented in the main only a change in the

¹As \$1,000 were redeemed in 1881-2, the total outstanding until retirement was \$1,647,000.

²House Journal, 16th Leg., Reg. Sess., p. 806.

³The balance, or \$8,103, is not traceable in the reports. Some of it went for commissions on sale, some for express charges. Included in the amount to pay certificates of public debt is \$3,000 of bonds transferred in 1882-3. Special accounts were set up on the books of the treasury in the name of the several objects of payment, and later when the claims appear to have all been out, the balances were transferred to the general revenue account. Balances transferred in 1879, 1885, and 1893 amounted to \$18,743.70.

form of the state debt. Only \$200,000, or the par value of that sold to meet current deficiencies in the ordinary revenue, was an addition to the debt; the remainder, or \$1,447,000, merely took the place of maturing bonds and of unfunded debt whose origin antedated January 15, 1874. The conversion of the 10 per cent funding bonds saved the state \$20,136 on its annual interest charge.

In 1879 the opportunity to convert the 10 per cent pension bonds was seized. These were redeemable at the pleasure of the state after July 1, 1879, and provision was made for their redemption by the act of April 21, 1879.¹ By this act \$2,573,000, 5 per cent, 30 year bonds, and \$1,000,000, 4 per cent, 20 year bonds were authorized. It was provided that the proceeds of \$200,000 of the bonds should go to supply deficiencies in the current revenues, and that the proceeds of the remainder of the issues should be applied to the payment of the outstanding bonded debt, being applied first to the payment of the pension bonds and certificates for pension bonds. Holders of bonds to be retired were extended the privilege of exchanging them for the new bonds at the latter's market value, but at not less than par; and holders of warrants could fund them in the 4 per cent bonds on the same terms. The 4 per cent bonds were of the denominations of \$5 and \$10, and the expectation was that the demand for them would come from holders of warrants and small investors. A total \$1,117,300 of the 5 per cent, and \$4,620 of the 4 per cent bonds were sold or exchanged in 1879 and 1880, and these remained as the amount outstanding.² \$143,700 were exchanged at par for pension bonds held by the special funds, and the remainder of those issued were sold to private investors, realizing a total premium of only \$2,545. The proceeds were used

¹Comptroller's Report, 1877-8. Message of Governor Hubbard, January 14, 1879. Message of Governor Roberts, January 29, 1879. *Laws of 1879*, p. 120.

²The 4's were only a novelty, and those sold were purchased to gratify a fancy. As the 5's were on the market the 4's were not attractive as an investment. It was expected that they would be used to pay the current debts of the state, but the condition of the treasury after May 1, 1879, made this use of them unnecessary. Message of Governor Roberts, January 11, 1881.

to take up pension bonds and certificates to the amount of \$1,118,448 and to pay \$202,545 of 4 per cent deficiency warrants issued in 1879.¹ The addition to the debt by the bond issue was \$200,000, which was the amount used to meet deficiencies; the remainder of the issue was for the conversion and the funding of existing debt. The saving in the annual interest effected by the conversion of the 10 per cent pension bonds into 5 per cent bonds was \$55,721.70.

In May, 1879, the treasury went on a cash basis and there came an end to the chronic annual deficiencies in the general revenue account. Though special funds were drawn upon and bonds were sold and the proceeds turned over to the general revenue account, each year saw a deficit and the holders of warrants who had not been able to anticipate the situation by charging higher prices to the state had to bear the loss of the discount.² Claims accruing between September 1, 1876, and February 29, 1879, on account of inadequate appropriations, which includes \$30,000 for teachers' services prior to July 1, 1873, were appropriated for in 1879 to the amount of \$540,000, and it was provided that until paid they should draw 4 per cent interest. These, except for teachers' services, were paid in 1879 and 1880.³

Until the amendment to the penal code in 1875 making it a misapplication of public money for any public officer having public money in his keeping to purchase state warrants, public money was used for private speculation by sheriffs and other officers.⁴ Until 1879 the practice also prevailed at the treasury to pay warrants irrespective of their date and number, but

¹Message of Governor Roberts, January 11, 1881. For act authorizing deficiency warrants to draw 4 per cent interest, see *Laws of 1879*, p. 180.

²During 1874 warrants were quoted in the market at from 70 to 97 cents on the dollar; in 1875, from 88 to 98 cents; in 1876, from 82 to 97 cents. In February, 1879, they were selling at 92 cents. *Galveston News*, December 7, 1876, and February 23, 1879.

³Deficiency warrants were quoted at 85 and 86 in August, 1879; and at 93 and 93½ in December, 1879. *Galveston News*, August 30, and December 28, 1879.

⁴Message of Governor Coke, January 12, 1875. *Laws of 1875*, p. 11.

Treasurer Lubbock adopted the rule of payment according to date and number.¹

The Constitution of 1869 enjoined the establishment of a sinking fund of 2 per cent when any bonded debt was authorized. The only sinking fund established in accordance with this provision was one for the frontier defence bonds of 1870. It was a combined interest and sinking fund, and an amount of taxes was supposed to be turned over to it sufficient to pay annually the interest on the bonds and 2 per cent of the principal. Its receipts were not adequate to meet even all of the interest on the bonds, for that on the bonds held by the Agricultural and Mechanical College went overdue. In 1874 \$20,000 of the bonds were redeemed and canceled, but after 1874 the fund was not maintained, and it was closed in 1878 and \$5,000 of bonds redeemed with the money then on hand.

The Constitution of 1876 does not require that the establishment of a sinking fund shall accompany the creation of a debt. It merely states that the legislature shall have the right to levy taxes for "the benefit of the sinking fund, which shall not be more than two per centum of the public debt."²

The bond act of July 6, 1876, provided for the establishment of a sinking fund of 2 per cent. This provision, though mandatory upon the treasurer, was not carried out. The item appeared in the appropriation bills, but no funds were reserved in 1876, 1877, or 1878. In 1879 Governor Roberts vetoed the appropriation items of \$400,000 for interest and \$100,000 for the sinking fund in order to force the legislature to reduce the share of the general revenue appropriated to the school fund, and after his suggestions were adopted he approved the debt items.³ In 1879 and 1880 \$200,000 was set aside for the fund, but it was not applied to bonds, but to the payment of deficiency warrants.⁴

¹Galveston News, March 12, 1879. This had the effect of lowering the discount; message of Governor Roberts, January 11, 1881.

²Art. 3, sec. 48.

³Galveston News, April 24, May 8, 31, 1879. The veto was not taken in the financial world to signify a repudiation sentiment; the Commercial and Financial Chronicle, vol. 28, p. 495.

⁴Message of Governor Roberts, June 10, 1879, and January 11, 1881. The report of the comptroller for 1879 and 1880 is confused on the sinking fund statement in that the fund is not credited in 1880 with the \$100,000 which the general revenue fund states was transferred.

The bond acts of 1879 did not contain any provisions for a sinking fund. This method of paying the public debt was changed to one which used the surplus in the treasury and the proceeds of the sale of the public lands. In 1879 the vacant and unappropriated lands in the fifty-five Panhandle counties, or the territory north of the thirty-third degree of latitude and west of the one hundredth degree of longitude, were set aside for sale at fifty cents an acre, and one-half of the proceeds was appropriated to the payment of the public debt.¹ Only \$5,718 was received up to the end of the fiscal year 1880, and \$2,308 was applied to the redemption of bonds.

The recognized funded debt on August 31, 1874, was \$1,493,800; the ascertained floating debt, \$1,136,527; and the debt of doubtful validity, exclusive of accumulated interest, due the school and university funds was \$537,008—or a total debt of \$3,167,335. On August 31, 1880, there was no floating debt, and the funded debt, including that of doubtful validity, was \$5,566,928. The increase of \$2,399,593 was due principally to the pension bond act of 1874 and to the use of bond sales to meet the annual deficiencies in the current revenues. The increase due to pensions was \$1,117,300, and that on account of deficiencies was approximately \$1,152,000. The receipts to the general revenue fund from bond sales amounted to \$1,058,228, distributed as follows:²

1875	\$653,752
1876	100,000
1877	101,125
1879	203,351

Pensions and deficiencies combined were responsible for an addition of approximately \$2,269,300, and the balance of the increase was due to the funding of claims antedating January 16, 1874.

¹Message of Governor Roberts, January 29, 1879. Laws of 1879, p. 48.

²The proceeds in 1875 represented bonds sold at an average discount of 15 per cent; all the other sales were at par or at a premium. In order to get the face value of the debt which the proceeds of 1875 represent, 15 per cent is added.

The close of this period witnessed a gratifying advance in the credit of the state, for whereas 10 per cent bonds sold in 1874 and 1875 at a discount, 5 per cent bonds brought par in 1880. In 1874 14 per cent of the funded debt, including that of doubtful validity, bore 6 per cent interest, and the remainder bore 10 per cent and 7 per cent. In 1880 56 per cent was on a 6 per cent and 5 per cent basis. Five per cent was as low as the state could get money in the open market, and had it not been for the fact that the school and other special funds took so large a share of the debt, it is doubtful if a 5 per cent rate could have been secured. The wiping out of the harassing floating indebtedness, the refunding operations, and the establishment of the treasury on a cash basis after a long period of deficiencies are among the most notable achievements during this period.¹

¹According to the report of the Tenth U. S. Census, the bonded debt of the state in 1880 was \$5,566,928; the debt of counties, \$2,509,287; the debt of cities and towns, \$3,588,178.

PART VII.
THE PERIOD 1881-1915.

CHAPTER 1.

INTRODUCTION.

By 1880 Texas had emerged definitely from under the spell of depression cast by the Civil War, the Reconstruction, and the panic of 1873. Conditions which trace their origin to these unhappy periods persist, however, and tend to complicate many of the political and economic problems which engage the present generation.

The growth of population during this period took Texas from out of eleventh place and put her in 1910 into fifth place among the states. The decennial census figures were as follows:

1880.....	1,591,749
1890.....	2,235,527
1900.....	3,048,710
1910.....	3,896,542

The negro element in the population declined relatively, its percentage of the total being 24.7 in 1880, 21.8 in 1890, 20.4 in 1900, and 17.7 in 1910. Negroes numbered 393,384 in 1880, 488,171 in 1890, 620,722 in 1900, and 690,049 in 1910. In 165 counties out of a total of 245, the percentage of negroes of the population was less than 12.5. These were mainly the Panhandle and the western and southwestern counties, or the newer, more sparsely settled and non-cotton-growing counties. In only eight counties, in 1910, was the percentage of negroes over 50, whereas in 1900 this was true in the case of thirteen counties. In those counties in which negroes are numerous they are an asset as a labor force, but otherwise they are a heavy social liability. They accumulate little property, they are an unskilled and indifferent class of laborers, and the expense of their policing and education falls almost wholly upon the whites.

The population of Texas is very largely rural, and though the urban element is increasing, the change is not at a rapid rate. In 1890 the rural percentage of the population was 84.4, in 1900 it was 82.9, and in 1910 it was 75.9. The density of population was 6.1 persons to the square mile in 1880 and 14.8 persons in 1910.

Agriculture in 1910 engaged 60 per cent of the population ten years of age and over employed in all occupations, as compared with 68.8 per cent in 1880, 64.3 per cent in 1890, and 62.4 per cent in 1900. Since 1880 the expansion of agriculture resulted in a large part of the area of the state being reclaimed from a state of uselessness to one of production. In 1880 21.6 per cent of the land area was in farms; in 1890, 30.6 per cent; in 1900, 74.9 per cent; and in 1910, 67 per cent. The decline between 1900 and 1910 was due to the fact that land which was used for grazing in 1900 and which was classified under farm land had been cut into small tracts by 1910, and at this latter date these tracts were owned by speculators or others who withheld them from use, which prevented them from being classified as farm land. During this period the Panhandle, the western and the southwestern parts of Texas were brought into the area of cultivation. While the per cent of lands in farms greatly increased, the percentage of this area which was improved declined. In 1880 34.9 per cent of farm land was improved and the percentage in 1910 was only 24.3. But there was, of course, an enormous increase in the absolute acreage of improved land. The acreage of such was 12,650,314 in 1880 and 27,360,666 in 1910.

Remarkable increases occurred in the value of farm property during the period 1880-1910. The values of lands and buildings were \$170,468,886 in 1880, \$399,971,289 in 1890, \$691,773,613 in 1900, and \$1,843,203,395 in 1910. The value of livestock was \$339,433,843 in 1910, as compared with \$60,307,987 in 1880.

The statistics for manufacturing are not comparable farther back than 1899.¹ The value of the products of manufactures

¹Beginning with 1899 the United States Census enumerated only manufacturing establishments conducted under the factory system. Before that date neighborhood, hand and building industries were included.

increased from \$92,894,000 in 1899 to \$272,896,000 in 1909. In 1909 the number of persons ten years of age and over engaged in manufacturing and mechanical industries was 184,396, as compared with 934,140 in agriculture. The manufactures which led in values of products in 1909 were those whose finished products were not far removed from the raw material stage, such as slaughtering and meat packing, flour and grist milling, the manufacture of lumber and of timber products, and the manufacture of cottonseed oil and cake. There was not much pure manufacturing carried on in 1909, by which is meant manufactures which are far removed from the raw material stage. The gross value of the products of mining enterprises—that is, mines, quarries, and wells—was \$10,742,150 in 1909. Petroleum and natural gas accounted for \$6,356,000, or 59.4 per cent of the total. The oil industry has developed mainly since 1900. The value of the bituminous coal mined in 1909 was \$3,136,004.

Though manufacturing and mining increased considerably between 1880 and 1910. Texas was in 1910 predominantly agricultural. In value of products, capital invested, and population engaged, agriculture far outdistanced other occupations.

The growth of banking in Texas is one of the best evidences of the material development of the state. In 1880 there were in the state only 13 national banks, with a total capital of \$1,579,000, and deposits of \$2,081,000. In 1890 the number of banks was 189, the capital and surplus amounted to \$25,760,000, and deposits were \$30,450,000. In 1900 the number of banks had increased to only 223, with capital and surplus of \$25,337,000 and deposits of \$49,749,000. The greatest increase took place after 1900, and was due to the modifications in the national bank act in 1900, to the incorporation of state banks, and to prosperous times. In 1915 there were 535 national banks, with a combined capital and surplus of \$81,208,000, and with demand and time deposits of \$185,100,000.¹

The incorporation of state banks began in 1905. An amendment to the state constitution removed the ban which had existed since 1876. The number grew rapidly on account of

¹Report of the Comptroller of the Currency, 1915, vol. 2, p. 351.

the low minimum capital requirements (\$10,000) and the law guaranteeing demand deposits. In September, 1905, there were 29 state banks, with a capital and surplus of \$1,936,000, and demand and time deposits of \$1,701,832. By 1915 there were 835 state banks and trust companies, their combined capital stock and surplus was \$39,575,738, and they had demand and time deposits of \$77,253,027.¹ The development of banking has made easier the taxation of loanable funds, inasmuch as such funds are more readily reached when in the control of corporations than when they are in the hands of private lenders.

Railroad mileage amounted to 3,244 in 1880, 8,710 in 1890, 9,867 in 1900, and 15,635 in 1915. Though the absolute mileage was very large in 1915, there were only 5.9 miles of line to each 100 square miles of area of the state. In 1880 there were 1.2 miles of line to each 100 square miles of area. In 1882 the policy of land grants by the state in aid of railroad construction came to an end. The important construction since 1880 was that which opened up the Panhandle and the southwest and made possible the expansion of agriculture into those sections.

¹MSS. Statement, September 2, 1915, department of insurance and banking.

CHAPTER 2.

EXPENDITURES.

An index of the development of a state is the growth and character of its public expenditures. The eminent German economist, Adolph Wagner, has stated what he calls the law of the increase of public expenditures: "Increase is both extensive and intensive; the central and local governments constantly undertake new functions, while they perform both new and old functions more efficiently and completely." The public expenditures of Texas since 1880 exhibit the tendencies asserted by Professor Wagner. While total net expenditures increased from \$2,349,973 in 1881 to \$16,659,844 in 1915, or by 609 per cent, those on account of education, charities and corrections, and pensions and support of soldiers' homes increased from \$977,998 in 1881 to \$13,866,269 in 1915, or 1317 per cent.¹

Expenditures of the kind which Herbert Spencer calls protective—in other words, those for the judiciary, for the bare general and financial administrative functions of the government, and for the militia—showed a percentage decrease, as did also those for the legislature, public printing, and interest on the public debt. Except in the case of the interest item, there was an absolute increase in all expenditures, and it was especially large in the items of general administration and judiciary.

General administrative agencies in 1880 were the executive, state, and attorney general's departments; the department of insurance, statistics and history, the state health officer, and the general land office. There has been a marked development since 1880 in the establishment of those general administrative agencies whose object it is to conserve directly the economic,

¹The only expenditures for the penitentiary which are included are those made out of the general treasury of the state. The amounts for education, charities and corrections, etc., are not net expenditures, but are a combination of expenditures and warrants drawn on the general treasury.

physical and social welfare of the citizens. These have taken the form of boards, commissions, and commissioners.

In 1881 a fish commissioner was authorized, and his duties were concerned with the propagation and preservation of fish.¹ After 1885, and until 1895, this work was suspended, but in 1895 the office of fish and oyster commissioner was created, and regulation of the fishing and the oystering in the bays and coast waters of the state was begun.² In 1907 the duties of this officer were extended to game protection, and his title was changed to that of game, fish, and oyster commissioner.³ This state service is self-sustaining as a result of taxes, fees, and rents of oyster beds. In 1883 the office of state engineer was created, and it lasted until 1886. It was the duty of this official to inspect the railroads of the state to see that they complied with the laws.⁴ This and other laws enacted at this time constituted the beginning of railroad regulation proper in Texas, the culmination of which was the establishment in 1891 of a mandatory commission with supervision over rates, service, and the issue of securities.⁵

In 1887 the bureau of agriculture was created and attached to the department of insurance, statistics, and history, and its function was defined as "to aid and advance the interest of agriculture in Texas."⁶ In 1907 this bureau was made into a separate department.⁷ In 1893 a livestock sanitary commission was established to deal with quarantine and other sanitary regulations affecting livestock, and in 1911 the office of state sheep inspector was created.⁸ The growing recognition by the state of its duty to promote the agricultural and livestock

¹Laws of 1881, p. 83.

²Laws of 1895, Reg. Sess., p. 170. Laws of 1899, p. 312. Laws of 1905, Reg. Sess., p. 128. Laws of 1907, Called Sess., pp. 233, 254. Laws of 1909, p. 325.

³Laws of 1907, p. 254. Rev. Civil Stats., 1911, title 63, chap. 2. Laws of 1911, p. 62. Laws of 1913, Reg. Sess., p. 297.

⁴Laws of 1883, p. 98.

⁵Laws of 1891, p. 55. Rev. Civil Stats., 1911, title 115, chap. 15.

⁶Laws of 1887, p. 98.

⁷Laws of 1907, p. 127. Rev. Civil Stats., 1911, arts. 4435-4475.

⁸Laws of 1893, p. 70. Rev. Civil Stats., 1911, title 124, chap. 8. Laws of 1911, p. 9. Rev. Civil Stats., 1911, title 136, Chap. 1.

interests of the state was attested by the provision made in 1909 for the establishment of stations where experiments should be conducted in agriculture, horticulture, and animal husbandry, and by the provision made for teaching elementary agriculture in the common schools, the state normals, and in the summer schools of the Agricultural and Mechanical College, the University, and the College of Industrial Arts.¹ In 1911 provision was made for the establishment of rural high schools. In 1914, following the outbreak of the European war and the consequent difficulties experienced by the farmers in the marketing of their products and in the securing of credit, provision was made for the establishment of state warehouses and for state assistance in the marketing of farm products.² This state service is under the supervision of the commissioner of insurance and banking. Bearing also on the agricultural interests were the creation in 1909 of the state levee and drainage board, whose work looks to the reclamation for agricultural uses of the overflowed, marsh and swamp lands in the state; the establishment in 1913 of a board of water engineers, which has the administration of a general irrigation law, including the control over the waters of the state which may be used for irrigation purposes; and the creation in 1915 of the position of state forester.³ In 1915 there was appropriated \$100,000 for the payment of bounties for the destruction of wild animals which are inimical especially to livestock.⁴

In 1903 the bureau of vital statistics was established and the title of the quarantine department was changed to that of the state board of health and vital statistics.⁵ Appropriations have increased as the scope of the board's functions have grown and as the public has realized the important character of the work. In the quarantine work, however, there has been some

¹Laws of 1909, pp. 332, 221. Laws of 1913, Reg. Sess., p. 339. Laws of 1913, Called Sess., p. 98.

²Laws of 1914, Second Called Sess., p. 2.

³Laws of 1909, p. 136. Laws of 1911, p. 160. Laws of 1913, Reg. Sess., pp. 292, 358. Laws of 1915, Reg. Sess., p. 88.

⁴Laws of 1915, Reg. Sess., p. 220.

⁵Laws of 1903, p. 220; Rev. Civil Stats., 1911, title 66, chaps. 1, 2. Laws of 1911, p. 173. Laws of 1913, Called Sess., p. 191.

needless duplication by the state of the work of the Federal government. In 1907 the office of dairy and food commissioner was created, thus aligning the state on the side of the pure food movement.¹ In 1911 an anti-tuberculosis commission was created and two tuberculosis colonies, now called a sanatorium, were established.² In 1913 the state health department was empowered to engage in statewide publicity work regarding the cause and prevention of communicable diseases, but while the law was approved, the appropriation to make it effective was vetoed by the governor.³

In 1907 a state mining board was established and provision was made for the inspection of mines by a state inspector for the purpose of securing the safety of those engaged in the mining occupation.⁴ In 1909 the bureau of labor statistics was created, and the commissioner of the same was empowered to ascertain violations of those laws which are intended to safeguard the health and safety of employees, and to collect statistics "relating to all departments of labor in Texas, and especially as affecting or bearing upon the commercial, social, educational, and sanitary conditions of the employees and their families, the means of escape from dangers incident to their employment, the protection of life and health in factories and other places of employment, the labor of children and of women and the number of hours of labor exacted of them."⁵ In 1903 a small appropriation introduced the study of manual training into the state normals, and in 1909 and 1911 aid was extended to aid the introduction of the study into the common schools.⁶ In 1913 an employers' liability law was passed. This law provided for an industrial accident board, whose salaries are paid by the state and whose duty it is to carry out the terms of the law.

¹Laws of 1907, p. 62. Laws of 1911, p. 76.

²Laws of 1911, p. 136. Laws of 1913, Reg. Sess., p. 120.

³Laws of 1913, First Called Sess., p. 191.

⁴Laws of 1907, p. 331. Rev. Civil Stats., 1911, title 93, chap. 2.

⁵Laws of 1909, Reg. Sess., p. 59. Laws of 1911, p. 17. Laws of 1913, Reg. Sess., p. 237.

⁶Laws of 1903, p. 66. Laws of 1909, Reg. Sess., p. 221. Laws of 1911, p. 34.

Upon the passage of the law authorizing the incorporation of state banks and upon the establishment of the department of agriculture, the old department of agriculture, insurance, and banking was reorganized, resulting in the department of agriculture and the department of insurance and banking. In 1909 the control of the state library was taken from the department of insurance and banking and given to a state library and historical commission.¹

The state fire rating board of 1909 was succeeded by the state insurance board of 1910 which in turn was succeeded in 1913 by the state fire insurance commission.² The commission has among its other duties that of fixing the rates of premiums charged by the fire insurance companies.

In the field of financial administration the only new agencies established since 1880 are the state revenue agent whose place was created in 1891, the state purchasing agent for the eleemosynary institutions whose appointment and duties were defined in 1900, and the state tax board which dates from 1905.³

The above described boards, bureaus, commissions, departments, etc., represent mainly new activities of the state, and they are, with a few exceptions, merely beginnings in their respective lines. They have not caused any very great addition to the expenditures of the state, and they are more significant in potentialities than they are in accomplishments. The poor showing in the way of results of some of them is due partly to lack of adequate financial support by the legislature and partly to the incompetence of those charged with the performance of the services.

Social expenditures are those for education, including the disbursements of the available school fund, those for the asylums, the orphans' home, the reformatories and penitentiaries, and those for pensions and for the Confederate veterans' and Confederate woman's homes. This group of expenditures is espe-

¹Laws of 1907, p. 127. Laws of 1909, Reg. Sess., p. 122. Rev. Civil Stats., 1911, title 85, chap. 1.

²Laws of 1909, First Called Sess., p. 311. Laws of 1910, p. 125. Laws of 1913, Reg. Sess., p. 195.

³Laws of 1891, p. 87. Laws of 1899, p. 138. Laws of 1905, p. 351. Rev. Civil Stats., 1911, arts. 7366, 7392, 7325-7338, 7407-7426. Laws of 1915, Reg. Sess., p. 193.

cially significant, because it measures the solicitude of the state for its future citizens, its old soldiers, and its unfortunate wards. Expenditures for education increased from \$828,192 in 1881 to \$9,446,222 in 1915, and whereas in 1881 they constituted 29.5 per cent of the state's total expenditures, in 1910 they were 66.9 per cent and in 1915 56 per cent. Expenditures for the asylums and the correctional institutions increased from \$147,969 in 1881 to \$2,861,876 in 1915, or from 6 per cent of the state's total expenditures to 17 per cent. Expenditures for pensions and for the homes of the veterans and their wives increased from \$1,837 in 1881 to \$1,558,171 in 1915. This was an increase of from seven-tenths of one per cent of the state's total expenditures to 9.2 per cent. This group of social expenditures made up over 82 per cent of the state's total expenditures in 1915 as compared with about 36 per cent in 1881.

The act establishing the main branch of the University was passed in 1881, and provision for the establishment of the medical branch at Galveston was made in 1890.¹ The school of mines at El Paso was authorized in 1913.² In 1899 the North and the Southwest Texas normals were established, in 1901 the College of Industrial Arts and in 1909 the West Texas Normal.³ In 1915 three new state normals were authorized, \$500,000 per year for the two years 1916 and 1917 was appropriated out of the general treasury to aid the country schools, and the appropriations for the higher educational institutions were generously increased.⁴ In 1884 the office of superintendent of public instruction was created, but it was not until 1893 there was established a department of education with the superintendent at its head and supported out of the general revenue fund instead of out of the available school fund.⁵ Notable provision was made in 1915 for the blind and for the feeble minded wards of the state. An appropriation of \$300,000 was made for a site and fire-proof

¹Laws of 1881, p. 79. Laws of 1889, p. 74.

²Laws of 1913, Reg. Sess., p. 427.

³Laws of 1899, pp. 74, 175. Laws of 1901, Reg. Sess., p. 306. Laws of 1909, Reg. Sess., p. 235.

⁴Laws of 1915, Reg. Sess., p. 116. Laws of 1915, First Called Sess., pp. 22, 113-114.

⁵Laws of 1893, p. 182.

buildings for the care of the blind, and an appropriation of \$100,000 was made for the establishment of a farm colony for the feeble minded.¹

In 1895 the Confederate veterans' home which had been conducted by the John B. Hood camp of Confederate veterans and maintained by private aid was taken over by the state, and in 1911 the Confederate woman's home which had been previously privately maintained was taken over.² These homes care for the indigent Confederate veterans and their widows. After the repeal in 1879 of the cash pension act of 1876, cash pensions to veterans of the Texas Revolution continued to be paid under old special acts, but the payments aggregated only a very small amount. The land pension act of 1879 granted 640 acres to indigent veterans or their widows, but in 1881 a new land pension act was passed which granted 1,280 acres and abolished the condition that the recipient should be indigent.³ In 1883 an annual cash pension of \$150 was granted to indigent veterans of the Texas Revolution, signers of the Texas Declaration of Independence, or their widows.⁴ In 1899 cash pensions to indigent and disabled Confederate veterans or their widows were granted.⁵ The law contemplated a pension of \$8 per month payable quarterly, though it was provided that if the sum appropriated should

¹Laws of 1915, First Called Sess., p. 36. Laws of 1915, Reg. Sess., p. 143.

²Laws of 1895, Reg. Sess., p. 42. Laws of 1911, Reg. Sess., p. 50. The transfer of the Confederate Home was first provided for in 1891, but the constitutionality of the act was regarded as doubtful, and an amendment to the constitution was consequently adopted in 1894 which authorized the transfer. This amendment fixed the maximum appropriation for the home at \$100,000 a year. Another amendment adopted in 1910, making constitutional the establishment of a home for the wives and widows of Confederate veterans, limited the total appropriation for the two homes to \$150,000 a year. Constitution, art. 3, sec. 51.

³Laws of 1881, p. 35.

⁴Laws of 1883, p. 36.

⁵Laws of 1899, p. 182. Laws of 1903, Reg. Sess., p. 108. The constitutional amendment authorizing pensions which was adopted in 1898 made the maximum appropriable for pensions \$250,000 a year. The amendment adopted in 1904 raised the maximum to \$500,000. Constitution, art. 3, sec. 51.

be insufficient to pay a pension of this amount the appropriation should be pro-rated among the pensioners. The practice prevailed of pro-rating the amount, and the appropriation increased from \$100,000 in 1889 to \$500,000 in 1911.

An amendment to section 51 of article 3 of the constitution was adopted in November, 1912, which authorized the levying of an ad valorem tax not to exceed five cents on the one hundred dollars valuation of property for the purpose of creating a special fund for the payment of pensions to those who served in the Confederate army and navy or in frontier organizations or state militia during the Civil War or to their widows. This amendment was carried into effect by the law of April 7, 1913, and a tax of five cents was levied.¹ The amount received by the pension fund in 1915 was \$1,277,669.46, and the amount disbursed was \$1,442,413.85.²

By the acts of February 20 and April 18, 1879, 3,050,000 acres of public lands were set aside to secure a state capitol. A contract was entered into on January 18, 1882, whereby in return for 3,000,000 acres of land situated in the counties of Dallam, Hartley, Oldham, Deaf Smith, Palmer, Castro, Bailey, Lamb and Hockley, valued generally at the time at fifty cents an acre, Matthias Schnell, of Rock Island, Illinois, agreed to construct a capitol.³ The present magnificent granite structure was brought to completion in 1888, and the chief money expense to the state in connection with it was its furnishings and the repair

¹Laws of 1913, Reg. Sess., pp. 282, 95. Laws of 1911, p. 288.

²Report of the Comptroller, 1914, p. 15. The year 1914 was the first one under the new pension law. To each pensioner on the total disability list the annual pension was \$100; to each pensioner not on the total disability list the annual pension was \$67.50. The pensions were paid quarterly. Since the new law the number of pensioners has nearly doubled. When the new law was passed it was expected that each pensioner would receive a pension of \$100 yearly; *Austin American*, August 23, 1915. In January, 1915, there were 18,000 pensioners as compared with 11,000 in 1911. Of the 18,000, there were 1,280 who were totally disabled and who received \$8 per month; the remainder received \$7.33 per month; House Journal, 34th Leg. Reg. Sess., p. 53.

³Contract for building the New State Capitol; Reports of Departments, 1881-1882.

of the grounds, for which \$171,500 was appropriated in 1888 and 1889. In 1882 the old capitol was destroyed by fire, and the state was put to the expense of a special session of the legislature and of the construction of a temporary capitol, for which latter purpose \$50,000 was appropriated. Monuments have been erected on the capitol grounds and elsewhere to commemorate the memory of those whose names are illustrious in Texas history; the battlefield of San Jacinto has been purchased and made into a state park; and the Alamo has been purchased to be converted into a memorial worthy of its heroic associations. In connection with public buildings and grounds may be mentioned the creation in 1911 of the office of state inspector of masonry, public buildings and works.¹

The expenditures on account of the state militia and state rangers decreased from \$92,076 in 1881 to \$57,815 in 1910 and then increased to \$123,143 in 1915. A movable state police force, known as the Texas rangers, dates from 1876. Following the break-up of the Confederacy and lasting until the eighties there was an outbreak of lawlessness in the state, and life and property, especially in the west and southwest parts of the state, were imperiled and subject to depredation. The state police of the Davis administration was organized partly to meet this condition of affairs, but not only was it not a movable force, but it was composed in no small measure of ruffians, was a political machine, and caused strife and disorder instead of suppressing it.² By 1879 protection from Indians and marauding Mexicans was entrusted to the United States Government and to Mexico, but thieves and desperadoes continued to infest the frontier, and the inefficiency of the county sheriff system to protect life and property was apparent.³ A state ranger force of twenty-seven men was again organized in 1879, and an annual appropriation of \$100,000 was made for each of the years 1880 and 1881 for the purpose of suppressing lawlessness and crime. After 1880 ex-

¹Laws of 1911, p. 207. Laws of 1915, p. 253.

²Galveston News, October 13, 1882. The force organized in 1876 was composed of 53 men, and \$150,000 was appropriated for it in 1877 and 1878.

³Galveston News, January 30, 1879.

penditures for this purpose decreased; though in 1884, on account of the outbreak of fence cutting and disorder in the western counties, a special appropriation of \$50,000 was made, but only \$16,500 was expended. The disturbed conditions on the Mexican border since 1910 have brought the rangers again into prominence, and appropriations for the force have been increased. The force may consist of not more than four companies of mounted men, each company to consist of not more than one captain, one first sergeant and twenty privates. The actual number is much less, however. In January, 1915, the force consisted of three captains and thirteen enlisted men.¹

Since 1880 expenditures for the volunteer guard have increased, and after 1890 the cause of the increase has been the cost of transportation and subsistence of the guard on the occasions of annual encampments and camps of instruction.

The cost of the judiciary increased from \$310,690 in 1881 to \$1,057,197 in 1915, but its proportion of total expenditures decreased from 12.6 per cent to 6.2 per cent. In 1880 the judiciary was composed of one supreme court, one court of appeals and thirty-three district courts. By 1901 there were a supreme court, one court of criminal appeals, five courts of civil appeals, each with three judges, and fifty-eight district judges. By 1915 the courts of civil appeals had increased to nine, and district judges numbered eighty-five. The responsibility for the absolute increase in judicial expenditures is to be divided between new courts, on the one hand, and fees and similar payments to sheriffs, clerks, county judges, constables, and attached witnesses on the other. Fees and similar payments constituted 57.6 per cent of judicial expenditures in 1881, 62.9 per cent in 1891, 63.6 per cent in 1895, but after 1897, and on account of the new fee act of that year, their share fell off, being 60.6 per cent in 1900, 56.9 per cent in 1910, and 54.7 per cent in 1915. The fees of sheriffs, clerks and attorneys in felony cases showed a marked decrease as a result of changes in the fee laws.

¹House Journal, 34th Leg., Reg. Sess., p. 48. For governing law, see Rev. Civil Stats., 1911, title 116, chap. 1.

Fees to sheriffs, clerks and attorneys in felony cases.		Payments to attached witnesses and fees of county judges and others in examining trials.	Total
1881	..... \$178,796	\$ 172	\$178,968
1887	..... 411,484	148,600	560,084
1891	..... 291,754	113,114	404,868
1894	..... 535,470	188,516	723,986
1895	..... 406,372	135,778	542,150
1900	..... 264,138	180,849	445,087
1905	..... 363,229	222,261	585,490
1910	..... 316,331	199,398	515,729
1914	..... 363,979	187,429	551,408
1915	..... 381,294	197,517	578,812

Legislation bearing on the payment of the expenses of attached witnesses and fees to county judges and others was enacted in 1883 and was the most important legislation on the subject after 1876.¹ Governor Ross called attention in 1889 to the immense drain upon the treasury made by fees in felony cases, but only slight and unimportant amendments were made.² The high water mark of fee and similar payments was reached in 1894 in the unprecedented sum of \$723,986. The question was a very live one in 1895; governors Hogg and Culberson directed attention to it, and a determined effort was made to effect a reform, particularly in the direction of limiting the maximum sum which county and district officers could receive.³ A fee bill, known as the Mills Bill, was bitterly lobbied against, met parliamentary obstructions, and finally died, and an innocuous bill on the subject was passed.⁴ The state Democratic platform of 1896 demanded a reform of the system and Governor Culberson again attacked with great ability the abuses, with the result that

¹Laws of 1883, pp. 5, 22, and 117. Earlier legislation is found in Laws of 1876, p. 284, Laws of 1879, Reg. Sess., p. 90, Laws of 1881, p. 37.

²Message of Governor Ross, January 10, 1889. Laws of 1889, p. 38. Laws of 1891, p. 138.

³Message of Governor Hogg, January 11, 1895. Message of Governor Culberson, January 16, 1895.

⁴Houston Post, January 22, and April 22, 23, and 24, 1895. Laws of 1895, Reg. Sess., pp. 146, 148, and 182.

the important law of 1897 was passed which reduced fees and limited the total compensation of county and district officers.¹ The sheriffs, however, who were among the largest beneficiaries of the old system, were powerful enough politically to escape the maximum compensation provisions of the act, and though the act reduced their fees, these officers were influential enough to secure in 1901 a restoration of the fees to the former profitable amounts.² In 1913 there was revision of the fee law, and a maximum compensation was set for the sheriffs.³

The amount payable out of the general treasury on account of fees and similar payments fluctuates from year to year according to the activity of prosecuting and other officers, and this has given rise to more deficiency appropriations than any other object of state expense, and has frequently worked a hardship upon officers and witnesses.⁴

Beginning about 1911 dissatisfaction with the fee method of compensating public officers has been on the increase, and the press and governors' messages have expressed severe condemnation of the method. It has been an incentive to the most despicable injustice through false arrests and prosecutions of those who are unable to protect themselves, and the state has been robbed through padded witness and tax lists, through excessive mileage charges by sheriffs for summoning witnesses and transporting prisoners, and through extravagant compensation for unskilled work.⁵ The cases of a justice of the peace who re-

¹Messages of Governor Culberson, May 25 and June 18, 1897, and January 10, 1899. *Houston Post*, April 29, May 2, and May 28, 1897. *Laws of 1897*, Called Sess., p. 5.

²*Laws of 1901*, Reg. Sess., p. 285. Other legislation on fees is found in *Laws of 1901*, First Called Sess., p. 21, *Laws of 1903*, Reg. Sess., pp. 219, 230, and *Laws of 1907*, p. 466.

³*Laws of 1913*, Reg. Sess., pp. 246, 286. See also *Laws of 1911*, pp. 104, 107, and 109, and *Laws of 1913*, Called Sess., p. 20.

⁴*Reports of the comptroller*, 1898, 1899.

⁵See account of the so-called peonage cases which were tried in the Federal District Court in Austin in January and February, 1911. See articles by Lloyd Lochridge in the *Austin Statesman*, January 2-10 and 25-27, 1913. Message of Governor Colquitt, January 16, 1913. *Dallas News*, January 7, 1914. *Austin Statesman*, June 25, 1914. *Austin American*, December 6, 1914. Grand jury charge of Judge W. L. Crawford, as reported in the *Dallas News*, January 6, 1916. Report of the grand jury of Travis County, as reported in the *San Antonio Express*, April 30, 1916.

ceived in one year \$9,576.35 and of a constable who collected \$9,157.40, and returned nothing as excess, show the extravagance of the system.¹ The state platform of the Democratic party in 1914 called for the abolition of the fee method of paying peace officers.² In case of officers like the attorney general, county judges, county clerks, county and district attorneys, and sheriffs, inasmuch as the constitution prescribes the fee system for them, the method of their compensation can not be changed to a straight salary basis without an amendment to the constitution.³ The principle of maximum compensation is now followed quite generally, though the way in which it is applied does not remove the evils of the fee system. Since 1897 the policy has prevailed of setting maxima to the amount of fees which may be retained by the office holder, the maxima varying according to the population of the county or the population of the chief city of the county. If there is an excess above the amount first set as the compensation of the officer and his assistants, the officer may retain one-fourth of the excess until it reaches certain amounts which also vary according to the population of the county or chief city. For example, the collector of taxes in a county which has a population of 38,000 or above or which contains a city of over 25,000 inhabitants may retain fees up to \$2,750 and one-fourth of the excess up to \$1,500, making a possible total compensation of \$4,250.⁴ There are certain vicious exceptions to the present fee law, and, furthermore, as the fund out of which assistants and deputies are paid must be raised from fees, the officers are under all of the inducements which give rise to the abuses characteristic of the fee system.

The penitentiaries have been a source of considerable expense to the general treasury and their management has been the occasion of much concern to the different administrations. From 1849 to 1870 the state operated the Huntsville penitentiary on its own account, but from 1870 to 1883 the buildings and convicts were leased, and the state was under no expense, except for

¹Dallas News, March 29, 1914.

²Message of Governor Ferguson, January 20, 1915.

³Report and Opinions of the Attorney General, 1912-1914, p. 246.

⁴Laws of 1913, Reg. Sess., p. 246.

buildings and for the transportation of the convicts. The lessees during the period 1878-1883 paid the state \$3.01 per month per convict.¹ The penitentiary located at Rusk was brought to completion in the early eighties, and it and the Huntsville properties and convicts were leased by the penitentiary board in 1882 for fifteen years at \$10,000 per year for each penitentiary. This new lease was at once revoked by the legislature, and the state resumed in 1883 the control and management which it has exercised ever since. The two-fold system of leasing the convicts in such numbers as the contractors desired and of employing those not leased upon the farms and in the industries of the penitentiaries was thereafter adopted and was followed until the investigations of 1909 led to the abolition of the lease policy. Abolition of the contract or lease system became effective January 1, 1914. The state farms and factories are now operated by the convicts, but the institutions are not self supporting, and in the past they have made heavy demands upon the general revenues. On July 1, 1913, the debts of the system amounted gross to \$1,656,835. Even with the deduction of cash on hand and bills receivable, the debt was well over one million dollars.² In view of the debts and the poor condition of the properties the legislature in 1913 authorized the issue of \$2,000,000 of 5 per cent bonds, to be secured by the penitentiary properties, except the State Railroad, and designated \$1,500,000 of the proceeds to be applied to the payment of the debts of the system, and the remainder to addition and improvements.³ In spite of large payments out of the general treasury in 1913 and 1914 the debt of the system was on January 1, 1915, \$861,845, and the house committee which investigated the penitentiary was uncertain whether this was all of the debt.⁴ In 1915 an appropriation of \$465,000 was made to cover the current expenses and debts during the year 1915.⁵ Debts which represent paying investments are productive, but those which are incurred to meet running expenses are unproductive. Some of the indebtedness

¹Biennial Report of the Penitentiary Board, 1880, p. 10.

²House Journal, 33rd Leg., First Called Sess., p. 53.

³Laws of 1913, Reg. Sess., p. 110.

⁴House Journal, 34th Leg., Reg. Sess., p. 439.

⁵Laws of 1915, First Called Sess., p. 114.

of the penitentiary was due to the purchase of farms and other productive property, but a large part was due to the failure of the system to meet current expenses. Unfortunately, the books of the penitentiary system have been so poorly kept from the accountant's point of view that expert accountants and legislative investigating committees have never been able to ascertain accurately the exact condition of affairs.

The possession of large industrial and agricultural properties and the frequent undertaking of various industrial experiments have complicated the finances of the system and have proved costly to the penitentiary and state treasuries. At Rusk the state owns iron ore lands, and between 1883 and 1909 the chief industry of the penitentiary at Rusk was the iron industry. Construction of the first iron furnace at Rusk began in 1883 and it started operations in February, 1884. Owing to faulty construction, however, the product was only from eight to ten tons of pig iron a day instead of an expected twenty-five or thirty. The new lessees of the convicts and industries at Rusk were forced to terminate their contract on account of the failure of the furnace, and the furnace was blown out in September, 1884.¹ In 1885 the legislature made an appropriation of \$50,000 to assist the iron industry, and the furnace was started again in November, 1885. Because of the insufficient demand in the state for pig iron, foundries were established for the manufacture of finished products. The cast iron pipe foundry began operations in January, 1887, and a general foundry made castings, iron fronts for buildings, sad irons, pots, kettles, sash weights, etc.²

Another blast furnace was erected at Rusk in 1897-1898, but before this time the fundamental technical weakness of the East Texas iron industry was apparent. This weakness was the absence of fuel and limestone. When the industry was first started the timber supply for the making of charcoal, which was the fuel, was near, but in time the readily accessible supply of timber was exhausted, and it became necessary to go farther and farther away for it. The lime rock, which was needed for

¹Biennial Report of the Penitentiary Board, 1884, p. 12.

²Ibid., 1888, p. 12.

smelting, was also brought in from a distance.¹ In 1902 the penitentiary board for the first time pointed out that the penitentiary at Rusk was not making expenses, admitted that the charcoal iron of East Texas could not compete with the coke iron of other iron-producing centers, and recommended that the iron industry should be abandoned by the state.² A change of administration occurred, however, and instead of abandoning the enterprise, the legislature appropriated \$150,000 for carrying it on, and a new fifty-ton furnace was erected. Ill luck immediately attended the revival of the industry by the failure of the blowing engine to work. In 1906 charcoal was given up for coke, and this change of fuel made necessary a rebuilding of the furnaces, which in turn led to a suspension of operations for a time.³ Conditions for the iron industry grew more unfavorable in 1907 and 1908, when freight rates on coke advanced and the market for the iron products slumped as a result of the panic of 1907. The result was that the pipe foundry was closed, and the furnace was blown out.⁴ Under state operation these enterprises were financial failures, and in order to make the showing that they did, the convicts were overworked.⁵ During Governor Colquitt's administration the furnace and pipe foundry were leased for \$5,000 a year, but the lessees surrendered their contract after having paid one year's rental and having expended \$30,000 on repairs.⁶ The iron industry at Rusk represents an investment of more than \$200,000, and it now stands an idle, rusting mass.

There was also erected at the Rusk penitentiary a factory for the commercial manufacture of boxes and crates, and at Huntsville there were constructed a machine shop and foundry, and factories for the manufacture of boilers, sheet metal, wagons, and furniture. The box and crate factory at Rusk were closed down in April, 1914. The furniture, wagon, and cotton goods factories at Huntsville were burned in 1911, but

¹Ibid., 1896, p. 16.

²Ibid., 1902, pp. 11 and 106.

³Ibid., 1906, pp. 12 and 94.

⁴Ibid., 1908, p. 13; *ibid.*, 1910, p. 17.

⁵House Journal, 34th Leg. Reg. Sess., p. 299.

⁶Ibid., p. 444.

the furniture and wagon factories were rebuilt in a temporary manner and with much less producing capacity. Fires in the penitentiaries in 1911 and 1913 wiped out many of the industries and caused property losses estimated at \$390,892.¹ The penitentiary has had difficulty in marketing its products, owing to the objections of the labor unions to prison-made goods competing with the products of free labor. All of the industries, other than the iron industry, are apparently capable of successful operation at the penitentiaries, and the most enlightened principles of prison management call for the employment of the prisoners in some useful and instructive occupations.

Besides the industries described above, the penitentiary system owns and operates with convict labor a number of farms. The legislature in 1885 authorized the purchase of a farm or farms for the penitentiary system, and in that same year the Harlem farm of 2,500 acres in Fort Bend County was purchased. This was the beginning of the employment of convicts upon state farms. In January, 1915, there were owned by the penitentiary system seven farms, with an aggregate acreage of 31,639, of which there were 19,509 in cultivation. Besides these, the system had under lease eight farms, with a total acreage of 26,458, of which 18,996 acres were in cultivation.² During the year 1914 there were 4,600 bales of cotton produced on these farms, and the value of the cane crop worked into sugar and molasses was \$125,000. On one of the state farms is a sugar mill, and on another is a syrup mill, and together they represent a large investment. The cultivation of cane and the manufacture of sugar and molasses began about 1888. There is considerable diversity of opinion as to the profitableness of cane cultivation on the state farms; but as to the manufacture of sugar and molasses, its abandonment has been recommended, if the conditions of withdrawal should be favorable.³

¹Ibid., pp. 37 and 52.

²Ibid., p. 40.

³Report of Penitentiary Investigation Committee, July 24, 1913, in House Journal, 33rd Leg., Reg. Sess., p. 72. Report of Committee to visit State Prison Farms, February 1, 1915, in House Journal, 34th Leg., Reg. Sess., p. 299.

The railroad known as the State Railroad was built by convict labor, and for twenty years it was administered as a part of the property of the prison system. It was begun at Rusk in 1893 or 1894, and the object in its construction was to secure timber for the iron industry. Some seven miles were built by 1895.¹ During the years 1899-1902 it was extended four miles.² But in the two years 1903-1904 seven miles of the road were abandoned, and a new line was begun. The object still was to reach timber for fuel for the iron industry. By 1905 twenty miles were built, and in 1907-1908 the road was extended to Palestine.³ It has a total length of 32.5 miles, and its value on June 30, 1915, according to the state railroad commission, was \$528,544. At this date also there were bonds to the amount of \$100,000, and current liabilities of \$539,529 outstanding against the road. In 1913 the management of this railroad was taken out of the hands of the prison commission and given to a manager appointed by the governor.⁴ The road has never paid operating expenses, and it represents an unwise and unprofitable expenditure of the state's money.⁵

It has been in connection with the penitentiaries that the state has engaged in industrial enterprises. The other principal enterprise was the attempt to do the state printing. Neither on the operating side nor on the accounting side was the record such as to reflect credit on the state. There was a failure to provide the capital necessary to put industries on their feet, unwise experiments were made, changes in prison administration with each change in the occupancy of the governor's chair prevented continuity of policy and deprived the prison system of trained service, obsolete machinery was used, cost accounting was unheard of in the industries, and the book-keeping and public reports were decidedly inadequate.

In the reorganization of the penitentiary system in 1910 it was provided that good conduct prisoners should receive out of the earnings of the prison the amount of ten cents per

¹Biennial Report of the Prison Board, 1894, p. 17.

²Ibid., 1900, p. 66; *ibid.*, 1902, p. 74.

³Ibid., 1908, p. 14.

⁴Laws of 1913, Reg. Sess., p. 279.

⁵House Journal, 34th Leg., Reg. Sess., p. 42.

day for the period of their confinement.¹ This provision was declared unconstitutional by the attorney general, however, and was therefore abandoned.²

Besides the penitentiaries, there are two other corrective institutions. In 1887 the reformatory, or as it is now called, the state institution for the training of juveniles, was established.³ In 1913 the state school for the training of dependent and delinquent girls, known as the girls' training school, was established.⁴

The expenditures of the state for general administrative agencies have naturally increased with the growth of the state. The civil servants of the state have grown greatly in numbers, but in their selection for the most part the spoils system prevails, and with each change in the governor or in the elective heads of departments there is usually a turning out of employees from the janitor to the chief clerk. In 1879 the salaries of all employees were reduced in order to help inaugurate the Roberts "pay-as-you-go" policy. Increases took place thereafter, but without any uniformity as to the departments affected, until 1895, when reductions were again made, owing to the financial depression after the panic of 1893, and further reductions were made in 1897. In 1901 some increases were made, but there was no uniform advance until 1911, when the effect of the rise in the cost of living upon the salaries of employees seems to have been recognized by the legislature. The compensation fixed originally in the constitution for the governor, heads of departments, and members of the legislature has remained unchanged, though conditions have materially changed. At the time the Constitution of 1876 was framed and adopted the country was in the depths of the depression which followed the panic of 1873, and prices were low. The salaries of heads of departments which are not laid down in the constitution are more generous than those the constitution prescribes, and this works an unwarranted discrimination

¹Laws of 1910, p. 143.

²House Journal, 34th Leg., Reg. Sess., p. 42.

³Laws of 1887, p. 64. Laws of 1889, p. 193. Laws of 1911, p. 211.

⁴Laws of 1913, Reg. Sess., p. 289. Laws of 1913, Called Sess., p. 7.

among the heads. The salary of the governor, which is \$4,000, is, even with the furnished mansion and an incidental fund, pitifully small for a state like Texas.¹ There is little doubt also but that a smaller legislative body, with none of the present restrictions on the length of its sessions, and with the members paid an annual salary, as are the members of Congress, would be a beneficial change from the present system.

¹Recent court decisions hold that the appropriations for groceries and incidentals for the governor's mansion are unconstitutional. These decisions were in the so-called "chicken salad" case, which originated in an injunction obtained by W. C. Middleton to restrain Comptroller H. B. Terrell from issuing treasury warrants to pay bills made by Governor O. B. Colquitt for punch, salad, etc., used at a governor's reception, and for other items connected with the upkeep of the governor's mansion. The injunction was granted by the lower court, and was upheld by the Fourth Court of Civil Appeals. See *Dallas News*, June 15, 1916, p. 10.

CHAPTER 3.

RECEIPTS.

Equally noteworthy with the growth of expenditures is the growth of receipts, and this is proof of the state's remarkable material development since 1880. The net receipts of the state government, including the proceeds of sales of land which accrued to the permanent funds, increased from \$3,076,402 in 1881 to \$11,248,899 in 1910 and to \$17,441,744 in 1914. But in 1915 the amount was \$15,492,308. Excluding the accounts of the permanent funds, because they are capital and not income funds, total net receipts attained the three million mark in 1880, the four million in 1886, the five million in 1888, the six million in 1900, the seven million in 1905; the eight million was reached and passed and the nine million attained by 1908, the ten million in 1909, the twelve million in 1912, and the seventeen million in 1914. Particularly marked has been the increase since 1905, that for the ten years being about eight million dollars as compared with less than three and one-half million during the preceding twenty years. The increase after 1901 coincided with the entrance of the state upon new regulative and developmental activities and the more liberal support of the existing institutions.

Except in 1885, when \$200,000 of bonds were sold in order to supply deficiencies in the ordinary revenues, there were no receipts during this period from bond sales in order to meet current ordinary expenditures. Receipts of an extraordinary character—if not that, certainly of a fortuitous character—were, to mention only the more important, refunds by the United States Government on account of expenditures by the state for frontier defense and on account of the debt of the Republic of Texas, and penalties from corporations violating the Texas anti-trust law. Refunds by the Federal government amounted to \$922,541 in 1888; \$145,037 in 1891; \$101,113 in 1898; and \$375,418 in 1906; or a total of \$1,544,109. Penalties collected of corporations have been more numerous, but the

banner years were 1909 and 1910, when \$1,958,815 was collected on judgments.

Taxes and interest on investments, such as bonds and land notes, constituted 86 per cent of the total receipts in 1881, 84.6 per cent in 1910, and 94 per cent in 1915. The percentage which taxes furnished, however, declined from 81.4 in 1881 to 67.6 in 1910, but rose again to 80 in 1914 and 1915. The percentage of interest rose from 4.6 in 1881 to 17 in 1910 and 13.4 in 1915.

New sources of revenue, or sources that may be considered new because of their marked modification, are many fees, especially corporation charter and permit fees, fees and other charges levied by educational, charitable, and penal institutions; rents of lands belonging to the special funds; and corporation and inheritance taxes.

Striking changes have taken place among the receipts from taxes, and of these the growth of special taxes on corporations, or on businesses usually conducted under the corporate form of business organization, is the most notable. The proportion of such special taxes of total tax receipts increased from 1.5 per cent in 1881 to 15.6 per cent in 1910, and was 11.9 per cent in 1915. The share of general occupation taxes has decreased from 18.5 per cent in 1881 to 10.9 per cent in 1910 and 7.1 per cent in 1915. The proportion of poll taxes has fallen from 22.9 per cent in 1881 to 9.6 per cent in 1910 and 6.1 per cent in 1915. The proportion of the property tax has increased from 56.9 per cent of the total in 1881 to 62.5 per cent in 1910 and to 74.5 per cent in 1915.¹

The establishment of the office of state revenue agent in 1891 and of the state tax board in 1905 are the only provisions made since 1880 of new agencies to deal with the revenue laws. The purpose of the office of the state revenue agent is that "of securing a better enforcement of the revenue laws of the state."² A strong fight was made in 1895 on the continuance of this office, but it

¹See Appendix, table 10, for statistics. The percentages are not strictly of tax receipts, but some assessed taxes are included.

²Laws of 1903, p. 87. Laws of 1899, p. 26. Rev. Civil Stats., 1911, arts. 7366, 7392.

was not abolished, and the activities of the officer have been mainly those of investigating the non-payment of occupation taxes.¹

The state tax board was created in 1905, but its duties of a general character were granted in 1907.² It was then given authority to acquire "information that may in any manner aid in securing a compliance with any tax or revenue law of this state," . . . of recommending "amendments, changes or modifications of the laws of this state . . . necessary or proper to remedy injustice or irregularity in taxation, and to facilitate the collection of taxes and the collection of public revenues." Practically the only work of the state tax board has been, however, the administration of the intangible assets tax.

¹Houston Post, March 21, 1895. See biennial reports of the state revenue agent, 1892-1912.

²Laws of 1905, p. 351. Laws of 1907, p. 469. Rev. Civil Stats., 1911, arts. 7407-7426.

CHAPTER 4.

THE OPERATION OF THE PROPERTY TAX.

No modification of this tax in any of its essentials has taken place since 1880. It remains a tax on property, applying an equal and uniform rate to all real and personal property, except such as is exempt.¹ Though there have been no additions to the list of legal exemptions, certain species of property have been rendered exempt by being declared religious or charitable. On the other hand, United States treasury notes and national bank notes, both of which were exempt by national law in the preceding period, became taxable in 1895 as a result of changes in the Federal law, and also, the property of the International and Great Northern Railroad which had been exempted in 1875 became taxable in 1900.²

The lists of taxable property have been amended to include new species of property; for example, bicycles and tricycles were added in 1895, and in 1905 automobiles were added to the taxable list.³

Amendments of the laws exempting property have been made with a view of defining more explicitly the exempt property of religious, charitable, educational, and public corporations.⁴ Thus in 1913 the property of the Young Men's Christian Association and of the Young Women's Christian Association, including their endowments, when not used for profit, and the funds and property of fraternal benefit societies, were exempted from taxation.

¹For interpretation of the meaning of the words "equal and uniform" see *Missouri, Kansas and Texas Ry. Co. v. Shannon*, 100 Tex., 379 (1907).

²Laws of 1895, Reg. Sess., pp. 37, 49. Laws of 1899, p. 299. The I. & G. N. exemption expired August 5, 1900, and the property was assessed and taxed for the remainder of that year in the proportion that the remaining part of the year was to the whole year.

³Rev. Civil Stats., 1911, art. 7518.

⁴Laws of 1905, p. 314. Laws of 1907, p. 302. In 1910 state farms on which the convicts are worked were made taxable for county purposes only; Laws of 1910, Fourth Called Sess., p. 122. Laws of 1912, Reg. Sess., pp. 153, 234. Rev. Civil Stats., 1911, art. 7507.

State taxes have been released or donated to counties and cities suffering public calamity from fire, flood, and cyclones.¹ The releases were for only a year, except that in 1903 all of the state ad valorem taxes, three-fourths of the occupation taxes, and all of the revenue poll taxes accruing within the county of Galveston were donated for a period of fifteen years to the city of Galveston to be applied to a trust fund to pay the interest and contribute towards the sinking fund of the debt incurred for raising the grade of the city.²

Under the laws of 1876 and 1879 assessment took place between January 1 and June 1, and collection began October 1 and payment was voluntary until March 1, except that taxes of non-residents were payable to the comptroller by January 1. In 1887 the date after which forced collection took place was changed from March 1 to January 1, except that the payment of taxes of non-residents at the comptroller's office was voluntary until February 1.³ It was believed that more money was in circulation on January 1 than on March 1 and that payment would thus come easier, especially to farmers, at the earlier date. In 1897 the time for voluntary payment was extended from January 1 to January 31, and in 1909 the time of assessment was changed so as to occur between January 1 and April 30.⁴ The law at present (1915) then is that assessment shall take place between January 1 and April 30 and that taxes are due October 1 and are voluntarily payable until January 31.⁵

A subject of unending, confused, and, for the most part, ineffective legislation has been that dealing with unrendered lands and delinquent taxes. The provision in the Constitution of 1876 for the annual sale of land for delinquent taxes and the legislation thereunder in 1876 and 1879 were expected to solve the difficulties of enforcement of payment and to lead to a "golden flood" into the treasury. In 1879 the task was imposed upon the comptroller of compiling lists which would enable the commissioners' courts of the organized counties to ascertain lands

¹Laws of 1881, pp. 25, 106. Laws of 1882, p. 31. Laws of 1893, p. 169.

²Laws of 1901, Reg. Sess., p. 298. Laws of 1903, p. 10.

³Laws of 1887, p. 127.

⁴Laws of 1897, Reg. Sess., p. 132. Laws of 1909, p. 372.

⁵Rev. Civil Stats., 1911, arts. 7508, 7615, 7692.

unrendered for taxes between 1871 and 1876. By 1882 the lists of only forty counties had been compiled, and these were so defective because of inaccuracies in the records that the collection of the taxes was suspended until more accurate lists could be furnished. Forced sales on the basis of the inaccurate records would have resulted in clouds upon land titles which only expensive litigation could remove.¹ The comptroller stated that it was impossible to compile accurate lists, so in 1884 it was left to the owners or agents of unrendered lands between 1871 and 1876 to render them,—a confession of the state's inability to reach them and of its withdrawal from the attempt.²

In the case of lands assessed but delinquent since January 1, 1870, the legislation of 1876 and 1879 provided for their seizure and sale, and that if they should not be purchased by individuals at the tax sales, they should be bid in by the state. In 1879 it was made the comptroller's duty to forward to the tax collector of each county on or before January 1 a complete list of all real estate that had been sold to the state for taxes assessed since December 31, 1876. The state apparently withdrew from the attempt to collect forcibly those assessed prior to January 1, 1877. A large amount of land sold for taxes in 1877 was bid in by the state and under the provisions of the law it should have been sold at the end of two years as public land. But before sale could be made, legislation in 1879 extended the time for redemption and these relief acts were almost as regularly passed as the legislature met. No successful effort to enforce the payments of taxes on land bid in by the state was made between 1876 and 1895-7. Many of the sales to the state were erroneous, because taxes had been paid on the land, but through ignorance of the owner or agent, they had been paid in the name of the wrong grantee. Owners waited, counting on more favorable inducements to redeem, and in the meantime they enjoyed the use of the land without payment of either taxes or rent. The exacting requirements of the courts as to the description of lands for assessment, in advertisements for tax sales, and in conformity to all the minute details precedent to seizure and sale, destroyed

¹Laws of 1882, p. 39.

²Comptroller's Report, 1881-2. Laws of 1884, p. 35.

confidence in tax titles, and taxpayers were not prompted to payment, therefore, through fear of purchase by individuals.¹

The amount bid in each year by the state is affected somewhat by commercial conditions; but for years the laws were unquestionably impotent, and the amount of taxes for which land was taken over by the state increased from \$38,588 in 1883 to \$100,017 in 1890 and to \$184,101 in 1895. The subject was vigorously attacked in 1895, and what is known as the Colquitt delinquent tax law was passed.² This law was amended in 1897, and was responsible for an increase in redemptions and a decrease in sales to the state.³ The amount bid in by the state was \$145,063 in 1896 and \$107,185 in 1899. In 1900 there was the enormous amount of \$379,346, but it declined to \$99,915 in 1906; since then it has not fallen below \$100,000. The right of a delinquent taxpayer to plead the statute of limitation as a defence against the payment of taxes was taken away in 1895.⁴ The features of the legislation of 1895 and 1897 were to substitute for the old process of seizure and sale by the collector the process of suit for the taxes in the district court in the name of the state, and if foreclosure were ordered, an order of sale followed and sale took place as in other cases of foreclosure. The law applied only to delinquent taxes since January 1, 1885, those before that date being relinquished because of the application of the statute of limitations.⁵

From 1881 to 1893 the rate of interest chargeable on back taxes at redemption was 8 per cent. In 1893 it was reduced to 6 per cent. Delinquents took advantage of the low interest rate

¹Comptroller's Report, 1881-2. Message of Governor Ross, January 20, 1887. Comptroller's Report, 1888. Galveston News, April 5, 1889. Comptroller's Report, 1889. Report of the State Revenue Agent, 1884. Message of Governor Culberson, January 16, 1895.

²Houston Post, February 12, 1895. Laws of 1895, Reg. Sess., p. 50. Comptroller's Report, 1896.

³Laws of 1897, Reg. Sess., p. 132. Comptroller's Report, 1898.

⁴Laws of 1895, Called Sess., p. 6. Rev. Civil Stats., 1911, art. 7662. The act of July 4, 1879 (Laws of 1879, Called Sess., p. 15), however, denied application of the statute of limitation to taxes due the state, a county, city, or town. See *Millinger v. City of Houston*, 68 Tex., 37 (1887).

⁵Rev. Civil Stats., 1911, arts. 7683-7699 and 7709.

to defer payment and lend at the higher commercial rates the money which they should pay for taxes. The Colquitt law left the rate at 6 per cent, but added a penalty of 10 per cent on the entire amount of accrued taxes, and otherwise sought to rob delinquency of its financial profitableness. In 1899 the financial profitableness was further discouraged by the provision that redemption might take place after one year only upon payment of double the amount of taxes, interest and penalty, and all costs.¹ This double liability continued until 1907, when it was thought to be a deterrent to redemption, and was replaced by the provision that payment of the taxes for which sale was made, with interest at 6 per cent, all costs and a penalty of 10 per cent on the amount of the taxes would secure redemption for lands sold to the state or any city or town.² But for lands sold for taxes and bought in by individuals the law was not changed and redemption may take place within two years upon payment of double the amount paid for the land.³

Since 1895 there has been a growing confidence in tax titles as attested by an increase in the number of sales to individuals of property foreclosed for taxes.⁴ The anomalous situation exists, however, that in the case of lands bid in by the state there is no statutory provision for their sale, except in the case of lands of non-residents of unorganized counties.⁵ It is alleged that the insufficient compensation of county and district attorneys when they bring suit and their exclusive power over enforcement have resulted in negligent enforcement of the lien of the state on real property.⁶ It was enacted in 1879 that all real and personal

¹Laws of 1899, p. 63

²Laws of 1907, p. 282. Laws of 1909, p. 400. Laws of 1913, Called Sess., p. 25. Also Laws of 1905, p. 317, and Laws of 1901, p. 400. In 1902 thirty-six counties had not complied records of delinquent as called for in the act of 1897, and in 1905 it was made their duty to do so. Laws of 1905, p. 318. Rev. Civil. Stats., 1911, arts. 7695, 7697. Comptroller's Report, 1902.

³Rev. Civil Stats., 1911, art. 7696.

⁴Comptroller's Report, 1899.

⁵Report on Audit, Organization and Methods, 1909, pp. 79, 90, 91. It appears also that a tax title to unpatented school lands is a very cloudy one, and that the state's lien on such lands is very defectively secured. *Ibid.*, p. 79.

⁶*Ibid.*

property of a person was liable for the state and county taxes due by him, including taxes on real estate and personal property, and the poll tax.¹

Delinquency and insolvency constitute waste and loss to the state in the assessment and collection of taxes because assessors are compensated for the assessment of the property. It is desirable that delinquency especially should be vigorously combated. It is desirable also that the expense of getting the taxes into the treasury, or that the expenses of assessment and collection, should be at a minimum. In 1883 the compensation of assessors and collectors was graduated, but no maximum to what such officers could receive was prescribed.² With the growth in taxable values and taxes collected, their pay became excessive in many instances.³ A reduction in collectors' fees was made in 1895.⁴ In the general revolt in 1897 against the abuses of the fee system, the fees of these officers were changed, and a maximum compensation was fixed.⁵ The maxima are graded roughly according to population of the counties, but in order that there may be an incentive for assessment and collection after the maxima have been reached, it is stipulated that each officer shall get one-fourth of the excess fees, the remaining three-fourths accruing to the county treasury.

The waste, loss, and cost incident to assessment and collection of taxes—including poll and occupation—was 18 per cent of the taxes assessed in 1882; 19.6 per cent in 1887; 18.4 per cent in 1891; 22.3 per cent in 1895; 23.8 per cent in 1900; 16.5 per cent in 1905; 16.2 per cent in 1910, and 16.1 per cent in 1915. The high percentages in 1895 and 1900 were due to the great increase in delinquent and insolvent ad valorem and poll taxes, and the

¹Laws of 1879, Reg. Sess., p. 6. Rev. Civil Stats. of 1895, art. 5176; Rev. Civil Stats., 1911, art. 7630. This article reads as follows: "All real and personal property held or owned by any person in this state shall be liable for all state and county taxes due by the owner thereof, including taxes on real estate, personal property and poll tax; and the collector of taxes shall levy on any personal or real property to be found in his county to satisfy all delinquent taxes, any law to the contrary notwithstanding." See also art. 7528.

²Laws of 1883, pp. 35, 101.

³Report of State Revenue Agent, 1894.

⁴Laws of 1895, Reg. Sess., p. 180.

⁵Laws of 1897, Called Sess., p. 5.

improvement since has been due to the reduction in expenses, delinquency and insolvency. The per cent of expenses, which are mainly the commissions paid for assessment and collection, to gross collections on the tax roll, by which is meant assessed taxes less erroneous assessments and insolvent and delinquent taxes, was 10.4 in 1887; 10.6 in 1891; 11.7 in 1895; 7.6 in 1900; 7.3 in 1905; 9.1 in 1910, and 6.6 in 1915. The effect of the fee legislation of 1897 is evident in the decline after 1895.

The compensation of assessors is based on the total of assessed taxes, one-half of which is paid by the state and one-half by the county. The fee of five cents for assessing each poll is paid by the state. The history of the division of costs is that in 1850 the county tax was limited to one-half of the state's, and the division of the costs on an equal basis of half and half was thought to be reasonable. This continued to be the rule until 1861, when a change was made, but in 1866 it was again provided that each should pay the same. Under the Constitution of 1869 the fees of assessment and collection might be added to the taxpayer's bill, and though this was enacted, it was repealed immediately, and a division of the costs was made, one-third to be borne by the county and two-thirds by the state.¹ This division remained the rule from 1871 until 1897, when the present apportionment of half and half was enacted. This division was fair enough as long as the state and county rates were equal or nearly so, but since county rates have increased beyond the state rates the state's share of the expense is unduly large. It would seem fairer that the expense should be prorated according to the interest which each has in the services rendered. It is asserted that the compensation of collectors in the richer counties is more than adequate, in the poorer counties less than sufficient; and that the surplus fees turned into the county treasury enable some counties to be at no expense for the collector's office.² Furthermore, the graduation of the collector's fees, compensating them highly (5% and 4%) for the first and easiest collections and much less (1%)

¹That part of the act of April 22, 1871, which imposed as an additional tax the fees of a justice of the peace for making assessment was repealed by the act of November 29, 1871.

²Report on Audit, Organization and Methods, 1909, pp. 80-1.

in the larger totals which are accomplished by some effort and unpleasantness usually deters collection of delinquent taxes.¹ It is apparent that some reform is needed, and those suggested are putting the officers on a salary basis, or having the entire expense borne by the counties, or separating state and local sources of revenue.²

Also there is loss to the state and, in addition, injustice to taxpayers as a result of failure to list property and of undervaluation of that which is listed. Both non-rendition and undervaluation have characterized the operation of the property tax throughout the period 1880-1915.³

In the assessment of real estate there has been perennial undervaluation. The United States Census of 1890 gave as the true valuation of taxable real estate, \$1,130,341,854, but the assessed value of the same was \$523,893,098, or 46.3 per cent. In 1904 the true value as given by the census was \$1,554,714,941, and the assessed value of all taxable real property was \$705,-

¹See special articles by Lloyd P. Lochridge in the *Austin Statesman*, January 2, 3, 4, 5, 7, 8, 9, 10, 25, 26, 27, 1913. For legislation of 1913 relating to the fees of assessors and collectors see *Laws of 1913, Reg. Sess.*, p. 246. See also *Rev. Civil Stats.*, 1911, arts. 3871, 3881-3883.

²Report of the grand jury of Travis county, in the *San Antonio Express*, April 30, 1916. The grand jury favored putting all officers on a salary basis, and cited the activity of the fee officers at the 1915 session of the legislature. See discussion fee system, ante.

³Messages of Governor Ireland, January 15, 1885, and January 11, 1887. Message of Governor Ross, January 20, 1887. Report of the Comptroller, 1888. Supplementary Report of the State Revenue Agent, 1892. *Galveston News*, February 11, 1893. Report of the Comptroller, 1898. Report of the State Revenue Agent, 1898. Messages of Governor Sayers, January 10, 1901, and January 16, 1903. Report of the Special Tax Commission, 1899. Reports of the comptroller, 1902 and 1904. Message of Governor Lanham, January 12, 1905. Messages of Governor Campbell, January 16 and April 16, 1907, and January 14, 1909. Messages of Governor Colquitt, January 18 and February 22, 1911, January 16, 1913, and January 12, 1915. Flagrant undervaluation is illustrated in the case of a farm purchased by the prison commissioners. The state, through the commissioners, paid \$100,000 for 2,715 acres, but the entire tract of 7,831 acres out of which the state's purchase was taken had been rendered for taxes at only \$53,080; *House Journal*, 34th Leg., Reg. Sess., p. 442.

738,721, or 45.3 per cent.¹ In 1912 the estimated true value of all real property was \$3,608,063,739, while the assessed value of all taxable property was \$1,650,198,381, or 45.6 per cent.² It has long been the practice of county assessors and commissioners' courts to protect their counties against state taxation by low valuations and high county rates, or by such valuations as are sufficient at the existing rates to yield the necessary county revenue. Non-remission of money, credits and securities is the result of the intangible character of such property and of the high rates of taxation.

The escape of money, credits and securities from assessment can not be statistically shown, though it can be roughly established in the case of money. The law considers deposits subject to sight check as cash.³ Deposits of individuals along with the cash in pocket or in the cash drawer are assessed as money on hand. Continuous statistics of deposits are available only for the national banks. Since 1905 the amounts of individual deposits in state banks are available, but before that date deposits in the few state banks chartered in the Reconstruction period and in private banks were not reported except partially, unofficially, and very occasionally by the Comptroller of the Currency. By comparing the amount of individual deposits in national banks at the date nearest to January 1 with the assessment of money on hand January 1, the evasion of money is conclusively, though roughly, established.⁴

¹Special Report of the U. S. Census on Wealth, Debt and Taxation, 1907, p. 41. It will be noted that the census does not give the real value of taxable real property, but only that of all real property, and this latter amount includes the value of some real property which is exempt from taxation. This must be held in mind in comparisons with 1890, and in judging of the escape of real property from taxation.

²Report of the U. S. Census on Wealth, Debt, and Taxation, 1913, vol. 1, pp. 23 and 748. It should be noted that in 1913 as in 1904 the census does not permit comparisons with 1890.

³Campbell v. Wiggins, 2 Texas Crim. App., 1 (1892).

⁴The demand deposits of individuals in state banks on December 31, 1909, were \$28,940,000, which added to those in national banks made a total of \$184,718,000. Assessed money on hand was only 13 per cent of this total. The deposits of individuals in state banks on January

		Index	Individual Deposits in	Index
	Money on Hand.	No.	National Banks.	No.
1880	.....\$ 7,276,000	100	\$ 1,832,000	100
1885	..... 12,435,000	170	8,285,000	452
1890	..... 14,264,000	197	25,889,000	1,413
1895	..... 10,689,000	146	36,242,000	1,978
1900	..... 8,900,000	122	54,246,000	2,961
1905	..... 11,749,000	161	103,149,000	5,630
1910	..... 24,546,000	337	169,263,000	9,239
1914	..... 22,242,000	305	203,855,000	11,127

Goods, wares and merchandise are a species of property, which though visible are because of their complexity impossible of assessment by the assessor. The following table shows the amount assessed at selected dates.

		Index No.
1880	.....\$ 16,302,000	100
1885	..... 27,043,000	165
1890	..... 29,322,000	179
1895	..... 31,427,000	192
1900	..... 37,461,000	229
1905	..... 50,390,000	309
1910	..... 88,401,000	542
1915	..... 100,109,000	614

Even the proverbial person who does not get out of the rain knows that the value of merchants' stocks in 1915 were more than 6.14 times greater than they were in 1880.

13. 1914, the same date as the report of the national banks, were \$79,697,000, and the aggregate of national and state deposits was \$283,552,000. Assessments of money were about 7 per cent of this. When one takes into consideration the money not on deposit in the banks, the amount assessed in proportion to the amount assessable was much below 7 per cent. The writer fully realizes the limitations applying to the use of these statistics, and the amounts and percentages are not given as exact demonstrations of the escape of money. The bank deposits of non-residents of the state are not assessable here, nor are public deposits, the deposits of exempt institutions, nor the deposits of other banks assessable.

The laws have been amended from time to time to close loopholes and these changes reveal some of the ways by which taxes were evaded. In 1888 the practice of removing property temporarily from the state in order to avoid taxation was covered by law, and in 1891 the device of converting upon the books of banks taxable money into non-taxable treasury notes was made illegal.¹ Livestock in pastures lying in more than one county had their situs defined in 1887, and in 1905 there was legislation to prevent the escape from taxation of timber on public lands leased or sold.² The current method of evading taxes on money is to have the same converted into New York exchange just preceding January 1, despite the fact that the method is declared to be unlawful.

Reliance, however, has been placed upon strengthening the oaths which taxpayers, assessing officers, and boards of equalization must make.³ The most notable of all efforts of this character was made in 1907 in the so-called "Full Rendition Act."⁴ This act defined the standard of valuation of property to be its "reasonable cash market value," or in case it should have no "market value" its "real or intrinsic value." The duty was devolved upon assessors and county boards of equalization to permit no property to be assessed except at these values; they were put under oath to discharge this duty, and neglect or refusal on their part to comply constituted malfeasance in office for which they could be removed from office upon suit brought by the attorney general or under his direction. In 1909 it was made the duty of boards of equalization to see that property was rendered at a "fair market value."⁵ As a result mainly of the "full rendition act" there was an increase of \$538,825,000 in the assessed values of 1908 over those of 1907. The number of acres of land assessed increased by 2,383,000; the assessed value of rural real

¹Laws of 1888, p. 3. Laws of 1891, p. 39. Laws of 1897, Reg. Sess., p. 203. Rev. Civil Stats., 1911, art. 7545.

²Laws of 1887, p. 109. Laws of 1889, p. 29. Laws of 1905, p. 72.

³Laws of 1897, Reg. Sess., p. 293. Laws of 1907, p. 459.

⁴Laws of 1907, p. 459.

⁵Laws of 1909, p. 372. Rev. Civil Stats., 1911, art. 7564. Arts. 7530 and 7569 carry the obsolete expressions "true and full value" and "reasonable cash market value."

property increased \$290,330,000, the assessed value of town and city real property increased \$118,620,000. The total increase in the assessed value of real estate was \$408,929,000. Of the remainder of the increase in 1908, railroad property made up \$50,039,000; credits of others than banks and bankers, \$15,076,000; goods and merchandise \$15,049,000; national bank shares, \$13,245,000; horses and mules, \$12,418,000; miscellaneous and other items, \$24,065,000. While assessed credits of individuals increased \$15,076,000, money assessed decreased \$4,734,000. The act thus affected chiefly real property, railroads, tangible personalty, and such intangible personalty, like bank stock, as is easily reached. Though designed to correct undervaluation of real property and though resulting in a very large increase in the assessed value of such property, it has not been successful. A comparison of the average true value of agricultural land in each county as given by the Thirteenth Census with the average assessed value of lands and buildings as given in the report of the state comptroller for 1911, shows that in only six counties were assessed values as much as 90 per cent of true values; in seven counties they were between 80 per cent and 90 per cent; in thirteen between 70 per cent and 80 per cent; in twenty-seven between 60 per cent and 70 per cent; in forty-three between 50 per cent and 60 per cent; in sixty-four between 40 per cent and 50 per cent; in thirty-nine between 30 per cent and 40 per cent; in thirty between 20 per cent and 30 per cent; and in six they were under 20 per cent.¹ Five of the six counties which were assessed at 90 per cent and over were in East Texas and had comparatively small population and wealth, while the wealthier counties, the famed black land counties, fell as a rule under 50 per cent. The varying percentages of assessed to true values result in unequal taxation for state purposes, and they clearly show the need of some cen-

¹The census excludes some lands which if included would diminish the average true value, but it does not include, as does the comptroller, the value of farm buildings. If buildings were included, the average true value would be much larger. The percentage of underassessment is, therefore, really much greater than is shown above, because of the omission of buildings from the census figures. The census figures are not accepted as accurate, but as nearly accurate as can be obtained.

tralized or state control or supervision of the assessing officers and county boards of equalization, if the real property tax is to be retained for state purposes.¹ This need becomes greater as the general revenue rate increases and as special state taxes, like the school and the pension taxes, come to be employed.

In 1913 and 1914 in some of the counties persons were employed by the commissioners' courts to unearth unrendered property, especially vendor's lien notes. The contracts with these "tax ferrets" or "tax adjusters" were held illegal, and the money collected through their activity was refunded.²

¹Bulletin of the University of Texas, No. 236, "Some Corporation and Taxation Problems of the State," p. 124. Dallas News, June 12, 1912.

²San Antonio Express, February 15, 1914.

CHAPTER 5.

THE RATES OF THE PROPERTY TAX.

(1) *State Rates.*

One of the theories advanced in explanation of the breakdown of the general property tax as applied to intangible property is that the high rates induce many owners of such property to evade the taxes. A review of the rates is, therefore, pertinent.

In 1881 the rate of taxation for state purposes, including public schools, was reduced from 50 cents to 40 cents on the one hundred dollars' valuation of property. In 1883 the constitution was amended to provide that the state rate, exclusive of the tax necessary to pay the public debt, should never exceed 35 cents, and that a separate tax, not to exceed 20 cents, should be levied for the benefit of the public free schools.¹ In 1912 the constitution was amended so as to authorize a special pension tax of not more than 5 cents on the one hundred dollars' valuation of property.²

The average rate during the thirty-five years, 1880-1915, was 33.25 cents for state and school purposes combined. The average for the state or general revenue purposes alone was 17.80 cents, and the average for school purposes was 15.45 cents. In 1888 the rate for general revenue purposes was reduced from 25 cents to 10 cents, owing to a large refund by the Federal government, but it rose to 20 cents in 1889. In 1908 the rate was reduced to 6.25 cents, in 1909 to 5 cents, and in 1910 to 4 cents, as a result partly of increased valuation and partly of the huge fines collected from the Waters-Pierce Oil Company and other penalized corporations. In 1911 the rate went up to 12.50 cents, in 1913 to 23 cents, and in 1915 to 30 cents.³ Since 1913 a special pen-

¹Laws of 1884, p. 5. Constitution, art. 8, sec. 9, and art. 7, sec. 3.

²Laws of 1911, Reg. Sess., p. 288.

³See Appendix, table 11, for tax rates. The tax rate of 55 cents in 1915 was forcefully and convincingly defended by Governor Ferguson in his Waco speech of June 10, 1916, as reported in the *Austin American*, June 11, 1916.

sion tax of 5 cents has been levied, as well as the special school tax.

As showing the importance of the tax among the sources of the state's total tax receipts, the property tax constituted 56.9 per cent of the total in 1881, 66.8 per cent in 1887, 65.2 per cent in 1891, 61.3 per cent in 1901, 62.5 per cent in 1910, and 74.5 per cent in 1915.

(2) *Local Rates.*

Numerous changes have been made since 1880 in the taxing powers of counties, towns, cities, and other subordinate units. In 1880 the constitutional tax limit of counties was 75 cents, outside of taxes on account of interest and sinking funds, and except in the case of coast counties. The limits for towns and cities were, according to their class, 25 cents, 75 cents, and \$2.50, except in the case of coast cities and except in the case of taxes for debts incurred prior to 1876.

In 1883 section 9 of article 8 of the constitution was amended so as to give counties, towns, and cities the power to levy a tax not to exceed 15 cents for roads and bridges. Also, it reduced the tax which might be levied for public buildings from 50 cents to 25 cents, and added streets, sewers and other permanent improvements to the purposes for which this 25 cents could be levied. The constitutional tax limit of counties became as a result of this amendment 65 cents as compared with 75 cents formerly, with the usual exception of taxes for debts incurred prior to the adoption of the amendment and taxes in coast counties for seawalls, etc. The statutory limit was accordingly changed and was fixed in 1884 at 65 cents.¹

In 1885 and 1887 cities and towns incorporated under the general law were authorized to levy a tax not to exceed 25 cents for the construction or purchase of public buildings, water works, sewers, streets and other permanent improvements, but it was not until 1891 that in conformity with the amendment of 1883 were they authorized to levy a tax not to exceed 15 cents for roads, street and bridge purposes.² The total taxing powers of

¹Laws of 1884, p. 67. See also Laws of 1885, p. 105.

²Laws of 1885, p. 99. Laws of 1887, p. 37. Laws of 1891, p. 135.

general law cities of 10,000 population and under became thus fixed by statute in 1891 at 65 cents, except the tax for debts incurred before 1883.¹ In 1889, however, a new class of general law cities was provided for under authority of article 11, section 5 of the constitution, namely, cities of more than 10,000 population. General law cities constituting this class were authorized to levy a tax not to exceed \$1.75, 25 cents of which was for the purpose of taking up any floating debt contracted prior to January 1, 1889.² In 1901 the provision of the constitution permitting coast cities to construct seawalls and breakwaters, was given statutory effect, and a tax not to exceed 50 cents, when voted by a two-thirds majority of the property taxpaying voters, was authorized.³ Legislation since 1901 affecting cities and towns has changed the population requirements of specially chartered cities and the method of adoption and amendment of charters. Until 1909 only cities having a population of more than 10,000 could be chartered by special act, but the amendment to the constitution adopted in 1909 makes it possible for cities having more than 5,000 population to be so chartered.⁴ Cities of 5,000 or less may be chartered by general law only.⁵ An amendment to article 11, section 5, adopted in 1912, gave cities of more than 5,000 population the power to adopt or amend their charters, subject to such limitations as may be prescribed by the legislature, and limited the tax which they may levy to \$2.50. The Thirty-third Legislature in 1913 carried this into effect by the so-called Enabling Act.⁶ The commission form of government may be adopted by any general law city, and it may be secured by special law cities through adoption or amendment of their charters, but the taxing power of no city is changed by its adoption.⁷ A town or village which has more than 500 and

¹Rev. Civil Stats., 1911, art. 925.

²Laws of 1889, p. 3. Rev. Civil Stats., 1911, art. 926.

³Laws of 1901, First Called Sess., p. 23. Rev. Civil Stats., 1911, art. 5585.

⁴Art. 11, sec. 5.

⁵Art. 11, sec. 4.

⁶Laws of 1913, Reg. Sess., p. 307.

⁷Rev. Civil Stats., 1911, title 22, chap. 15. Laws of 1913, Reg. Sess., p. 36.

less than 10,000 inhabitants may be incorporated as a town or village, and it may levy a property tax not to exceed 25 cents.¹

The taxing power of counties has been increased considerably since 1883. In 1890 article 8, section 9 of the constitution was amended so as to empower the legislature to authorize an additional road and bridge tax not to exceed 15 cents, and its levy was made subject to a majority vote of the qualified property taxpaying voters. This was carried into effect in 1891.² In 1901 the provision of the constitution permitting coast counties to construct seawalls and breakwaters was given statutory effect, and a tax not exceeding 50 cents when voted by a two-thirds majority of the qualified property taxpaying voters, was authorized.³ In 1906 article 8, section 9 was amended to permit a jury tax of 15 cents, and this was given statutory effect in 1907.⁴ The present (1915) taxing powers of counties is, except for debts incurred prior to the amendment in 1883 and except in coast counties, 95 cents, 15 cents of which is subject to majority vote of the property taxpaying voters.⁵

A feature of local taxation within recent years is the appearance of special districts of various kinds. Until the constitutional amendment of 1883, the legislature was limited in the creation of independent school districts to cities and towns. Where there was not an independent district the community school system, with no special taxing power, was in effect. The amendment of 1883 gave the legislature the power to form school districts within the counties of the state and to authorize a tax not to exceed 20 cents on the \$100 valuation to be levied in such districts upon vote of two-thirds of the qualified property taxpaying voters.⁶ In 1908 article 7, section 3, was amended, and the maximum tax which could be levied by an

¹Rev. Civil Stats., 1911, art. 1050.

²Laws of 1891, p. 51. Laws of 1913, Reg. Sess., p. 30.

³Laws of 1901, First Called Sess., p. 23.

⁴Laws of 1907, p. 39.

⁵Rev. Civil Stats., 1911, art. 2242.

⁶Art. 7, sec. 3. Laws of 1884, p. 38. In 1884, 53 counties were exempted from the provisions of the district system; in 1885, 90 counties; in 1888, 88 counties. Since 1888 the number exempted has declined. In 1909 the community system was abolished; Laws of 1909, p. 17.

independent school district was increased to 50 cents. The employment of this tax was made subject to a majority vote of the qualified property taxpaying voters.¹ Article 7, section 3, was again amended in 1909. The limit of the taxing power remained at 50 cents, but it was provided that districts could be composed of territory wholly within a county or in parts of two or more counties.² It was provided in the amendments of 1883, 1907 and 1909 that the limitation upon the school district tax did not apply to incorporated cities or towns which were independent school districts. Since 1905 their limit has been 50 cents, subject to a two-thirds majority vote of the property taxpaying voters.³

Pursuant to an amendment in 1904 of article 3, section 52, of the constitution, special districts for various purposes have been authorized with power to issue bonds and to levy and collect taxes to pay the interest and to contribute to a sinking fund of such bonds. In 1905 drainage districts and irrigation districts, and in 1909 road districts, navigation districts, and levee and overflow districts were provided for by statute.⁴

The taxing power for any or all of these purposes is limited by the constitutional provision that the debt created shall not exceed one-fourth of the assessed valuation of real property of the district, and that the total bonded indebtedness of any city or town shall not exceed the limits imposed by other provisions of the constitution.⁵ School and other districts which

¹Laws of 1909, p. 17.

²Laws of 1911, Reg. Sess., p. 200. The tax limit of both common school and independent school districts is the same. Rev. Civil Stats., 1911, title 48, chaps. 15 and 16.

³Rev. Civil Stats., 1911, title 48, chap. 17.

⁴Laws of 1905, pp. 212, 235. Laws of 1909, p. 23. Laws of 1907, p. 78. Laws of 1909, pp. 32, 140, 185. Laws of 1909, p. 271. Laws of 1911, Reg. Sess., p. 245. Levee and overflow districts are called "improvement districts." Laws of 1913, Called Sess., p. 89.

⁵Art. 3, sec. 52. The other provisions of the constitution here referred to are the tax limits of the several classes of towns and cities which are \$2.50 for special law cities and 25 cents for general law cities. The issue of bonds and taxation therefor in the case of all districts is conditional upon a two-thirds majority vote of the property taxpaying voters.

are subdivisions of counties and which make use of the county assessor for assessing district taxes can not employ higher valuations than those for state and county purposes, but this limitation does not apply when they have different assessing and collecting officers from the county.¹

It is not possible to state the total tax rate which may be imposed upon property, because of the undefined taxing power for debts, the different taxing powers of the coast and interior counties, the several classes of towns and cities, and the inclusion of cities and counties within districts. The average ad valorem tax per \$100 of assessed valuation may be found, however, though it gives but an idea of the real weight of taxation, because the ratio of assessed to true values of property has varied from decade to decade. The average ad valorem tax rates for both state and local purposes per \$100 of assessed value and per \$100 of estimated true value were as follows:

	Assessed value.	True value.
1860	\$0.20	.....
1870	0.75	.....
1880	1.43	\$0.55
1890	1.26	0.47
1902	1.34	0.53
1912	1.30	0.50

¹Miller v. Vance, 180 S. W. Rep., 739 (1915). See Rev. Civil Stats., 1911, arts. 2862 and 2853.

CHAPTER 6.

BUSINESS PROPERTY TAXES.

The general property tax applies to business property, but in the cases of the property of railroads, insurance companies, and banks, rules of administration differ from those applying to other property.

A. *Railroads.*

The special administrative rules applying to the tangible values of railroads have not been essentially changed since 1876. A defect in the earlier legislation was the lack of provision for review of rolling stock values by the board of equalization of the county where it was rendered in gross; but this was remedied in 1885.¹ It was also enacted then that interstate railroads should render in this state such proportion of their total rolling stock as the mileage of road in this state was to the total mileage of the road.

The assessment of the tangible values has remained unchanged in the hands of the county assessors. An effort was made in 1895 to devolve upon the railroad commission the duty of furnishing the assessors with the value of the road in each county and other information that might be useful to them in their assessment of the properties, but the bill to this end failed of passage.²

Under the existing system of taxation, each railroad company on or before April 30 delivers to the assessor of each county and incorporated city or town through which any part of its road runs or in which it owns real estate, a sworn statement which specifies the number and values of acres of land, the length of road and value per mile, including right of way, roadbed, superstructure, depots and grounds, all shops and

¹Comptroller's Report, 1881-2. Laws of 1885, p. 30. In 1883 bills were introduced for the equalization and different assessment of railroad property, but none met with success. The agitation was warm and the lobby was strong: Galveston News, February 3, 1883.

²Houston Post, March 21, 1895.

fixtures, and all personal property except rolling stock. This rendition is subject to revision by the county board of equalization.¹ The physical and personal properties of a road situated in an unorganized county are rendered to the state comptroller. On or before April 1 each railroad must deliver to the assessor of the county in which its principal office is located a sworn statement giving the mileage of the road in each county and the value of all the rolling stock. The valuation of the rolling stock is reviewed by the county board of equalization and, if approved, is certified to the state comptroller, who prorates it among the counties served by the road on the basis of the mileage in each, and each county's share is added by the assessor to the assessment roll. Subdivisions of counties, such as school districts, can not use the tax on rolling stock.²

In 1899 and 1900 the franchises of certain railroads were assessed separately under the property tax, but upon being tested in the courts the assessment was disallowed.³

In 1905 was enacted the most important railroad tax legislation since that of the passenger earnings tax of 1879. By the Intangible Assets Law provision was made to tax railroads on their intangible property, which is declared to be the difference between the whole value of the property and the value of the tangible property. For the determination of the intangible values a state tax board was created, composed of the comptroller, the secretary of state, and the state tax commissioner. Railroad companies are required by this law to fill out sworn statements of the data with which the board works. The intangible values ascertained for each road are certified to the county assessors, the share of each county being in accordance with its proportion of the mileage of the road, and they are placed on the state and county rolls and are taxed

¹Laws of 1909, p. 372. Rev. Civil Stats., 1911, arts. 7524-7525.

²Biennial report of Attorney General, 1912-14, p. 632.

³State v. Austin and Northwestern R. R. Co., 94 Tex. 530 (1901). The court held that in this case to tax the franchise separately would result in double taxation. It did not hold that the franchise was non-assessable, but that it had presumably already been assessed in connection with the other property. See also City of Dallas v. Street R. R., 95 Tex., 268 (1902).

at the same rate as other property.¹ For the first year of the operation of this law intangible assets to the amount of \$152,827,000 were ascertained, but the county boards of equalization reduced the amount actually assessed to \$30,803,000, or to 20 per cent of the amount found by the tax board.² The law was consequently amended in 1907 and it was made obligatory upon tax assessors to put on the rolls the values ascertained by the tax board and these values were removed from review or change by the board of equalization.³ This law has added a very large amount of property to the tax rolls.⁴ It has been held, however, that intangible property can not be taxed at a higher per cent of its true value than is other property.⁵

¹Laws of 1905, p. 351. Rev. Civil Stats., 1911, arts. 7414-7426. The law was sustained in *M. K. and T. Ry. Co. of Texas v. Shannon*, 100 Tex., 379 (1907). It was held (1) that intangible values are not such property as is required by the constitution to be assessed by the county assessor, but that they constitute one of the "other subjects" of taxation for the taxation of which the legislature is authorized to provide by art. 12, sec. 17. It was held (2) that the act confers not judicial but quasi-judicial powers upon the comptroller and the secretary of state. And it was held (3) that the equal and uniform provision of the constitution is not violated by the act, because this provision does not mean that the same method of ascertaining the value of property shall be adopted in all cases.

²Report of the Tax Commissioner, 1906.

³Laws of 1907, p. 469. *Lively v. M. K. & T. Ry. Co. of Texas*, 102 Tex., 345 (1909).

⁴The amounts assessed were:

1906,	\$31,499,000
1907,	\$171,990,000
1908,	\$173,403,000
1909,	\$174,100,000
1910,	\$174,862,000
1911,	\$174,757,000
1912,	\$162,363,000
1913,	\$168,106,000
1914,	\$162,644,000
1915,	\$156,518,414

⁵*Lively v. M. K. & T. Ry. Co. of Texas*, 102 Tex., 545 (1909). Also see *M. K. & T. Ry. Co. of Texas v. Kone*, 122 S. W. Rep., 424 (1909), and *M. K. & T. Ry. Co. of Texas v. Hassell*, 57 Texas Civil App., 522 (1909).

Some of the Texas railroads are assessed for taxation at a higher valuation per mile than their capitalization per mile or their valuation per mile by the Texas railroad commission. For example, the Houston and Texas Central Railroad had in 1915 stocks and bonds per mile of \$25,942 and was valued by the railroad commission at \$24,005 per mile, but was assessed for taxation at \$28,808 per mile.¹ In the case of a number of the roads the railroad commission's valuation is less than the assessed value for taxation, and both amounts are less than the capitalization per mile of line. The overcapitalization of many of the Texas lines explains why the stocks and bonds so greatly exceed the valuations by the commission and by the tax officials, though it is probable that this excess over the commission's valuations would not be so great if a revaluation of the roads should be made. Some of the valuations were made over twenty years ago. It has been contended that there should be the same basis for capitalization, for rate making, and for taxation.² This contention can not be accepted, however, because the purposes of the valuations are quite different, and the valuations are governed by quite different principles. Particularly is it true that a road may be taxed at a higher figure than that for which it may be capitalized, inasmuch as the selling value—which is also the taxable value—is made up of all the physical and intangible elements, while for capitalization and rate making some of the intangible elements should be excluded. This question has not been raised for adjudication in Texas, but the courts of other states tend to hold that franchises which cost the public service corporations nothing, good will, and other intangible values which do not represent actual investment should not be the bases for charges or securities.³

¹Report of the Texas Railroad Commission. 1915.

²C. S. Potts, *Railroad Transportation in Texas*, p. 195. Report of the Texas Welfare Commission, 1912, p. 48.

³Comparatively recent cases bearing on this question are *Cedar Rapids Gas Light Co. v. City of Cedar Rapids*, 223 U. S., 655 (1912), and *Public Service Gas Co. v. Board of Pub. Ut. Comm., et al.* (N. J.), 94 Atl. Rep., 634 (1915).

B. Insurance Companies.

Insurance companies, both domestic and foreign, are, except fraternal or benevolent companies, subject to taxation by the property tax on their real and personal property; but on account of the need of the definition of their debts and also on account of the requirement of the deposit of securities with the state treasurer, special legislation has been found to be necessary to define what personal property is taxable and what its situs is for taxation.

Interest in this state in the taxation of insurance companies has increased greatly since 1903, when there began the prolific insurance legislation. In 1903 companies for mutual insurance against loss or damage by fire, lightning, and storms were authorized to be chartered, and it was provided that no other tax should be required of such companies than one of one-half of one per cent on all gross premiums.¹ Fraternal beneficiary associations, domestic or foreign, are declared to be charitable and benevolent institutions and all their funds and assets, except real estate and office equipment, are exempt from state, county, and municipal taxation.² Domestic life, accident, and health companies, and domestic co-operative life insurance companies are taxable on their real and personal property less reserve.³

Foreign fire insurance companies must either file a bond or deposit securities, and domestic life, accident, health, fidelity, guaranty, surety, and casualty companies, and domestic mutual fire, storm and lightning companies must deposit securities with the state treasurer as a condition precedent to doing business in the state. But it is specifically provided only in the case of domestic life, accident, and health companies that the situs of all personal property for state, county, and municipal taxation shall be at the home office.⁴

In 1907 the condition was imposed upon all domestic or foreign stock or mutual life companies to invest not less than 75 per cent

¹Laws of 1903, p. 166.

²Laws of 1909, p. 357.

³Laws of 1909, pp. 192 and 285. Rev. Civil Stats., 1911, arts. 4764 and 4825.

⁴Laws of 1909, p. 192. Rev. Civil Stats., 1911, art. 4749.

of their legal reserve against policies of Texas citizens in Texas securities or Texas real estate.¹

All insurance companies, except domestic life, fraternal benefit associations, and mutual fire companies are, in addition to the taxes on their real and personal property, subject to an occupation tax on their gross receipts from premiums upon property and persons in this state.²

C. Banks and Bankers.

Until 1905, when as a result of an amendment to the constitution state banks were authorized to be incorporated, the only banks in the state were national banks, private banks, and the state banks chartered under the Constitution of 1869. Special definition of the taxable personal property of banks has been found to be necessary. Under the legislation of 1876 they were taxable on their real estate and tangible personalty, and on so much of their other personal property as remained after deducting the sum of deposits, accounts payable, bonds or other securities exempt by national and state laws, from the sum of money on hand, in transit, or in the hands of others subject to draft, checks, and other cash items, bills receivable and other credits due or to become due, and stocks and bonds of every kind.³ The statutes in 1879 erroneously failed to include bills receivable and other credits, and this was not corrected until 1883.⁴ In 1883 separate provision was made for national banks. It was then required that some officer of a national bank should furnish the assessor with a list of the shareholders and the amount of the shares of each, and that shareholders should render to the assessors the number and value of their shares. National banks were required to render all real estate and personal property

¹Laws of 1907, p. 316. Rev. Civil Stats., 1911, art. 4775.

²Laws of 1911, Reg. Sess., p. 216.

³Laws of 1876, p. 279.

⁴Comptroller's Report, 1881-2. Laws of 1883, p. 111.

except such as was exempt by the laws of the United States.¹ The method of taxing shareholders was unsatisfactory and was changed in 1885. It was then provided that each share of a national or of a state bank should be taxed only for the difference between its actual cash value and the proportionate amount per share at which the real estate was assessed.² The Revised Statutes of 1895 made no distinction between state and national banks, but there was later an amendment to cover this error.³ There was frequent complaint that banks, especially private banks, evaded taxation, but in 1897 a penalty was provided applying only to national banks for failure or refusal to furnish to the assessor a statement of the assets and liabilities of the bank.⁴

Though the chartering of state banks, savings banks, and trust companies was authorized in 1905, there were no corresponding changes made in the tax laws until 1911. State and private banks were taxed by one method, national banks by another. In 1911, however, the same method was applied to both state and national banks, which is that the real estate is taxable to the banks, while the shares are taxable to the shareholders at their actual value less the proportionate amount per share at which the real estate is taxed.⁵ Bank shares may not be assessed at a greater percentage of their true value than other property is assessed. Because of the ease of assessment of bank shares, there is no form of intangible property which is so completely reached for taxation as

¹Exempted by the laws of the United States were United States bonds, United States notes, and national bank notes. Rev. Stats. of U. S., 3701. In 1894 United States notes and national bank notes were declared subject to taxation under state laws. 28 U. S. Stats. L., 278. Restrictions on the taxation of national bank shares were that it should not be at a greater rate than was assessed upon other monied capital in the hands of individuals and that the shares owned by non-residents of a state should be taxed only in the city or town of the location of the bank. 13 U. S. Stats. L., 99; 15 U. S. Stats. L., 34. U. S. Rev. Stats., 5219.

²Laws of 1885, p. 106. *Rosenberg v. Weekes*, 67 Tex., 578 (1887). *Gillespie v. Gaston & Thomas*, 67 Tex., 599 (1887).

³Laws of 1895, Reg. Sess., p. 38.

⁴Comptroller's Report, 1888. Laws of 1897, p. 157.

⁵127 S. W. Rep., 1083. "Instructions to the Tax Assessors," issued by the comptroller's department, 1911. Rev. Civil Stats., 1911, arts. 7521-7522.

are they. The growth of banks in the state has been phenomenal and has tended to simplify the taxation of monied capital.¹

D. Other Businesses.

The intangible assets tax of 1905 was made to apply not only to railroad, ferry, bridge, and turnpike or toll road companies, but also to wharf, telegraph, interurban railroad, express, packing house and pipe line companies, chair and all other car companies, except sleeping, palace and dining car companies. It was provided, however, that upon compliance with this tax law the gross receipts tax law should not apply.² The companies other than the railroad generally elected to comply with the gross receipts law. The difficulties experienced by the state tax board in determining the intangible property of the companies and the greater simplicity of the gross receipts tax led to a change in the law in 1907, by which only railroad, ferry, bridge, and turnpike or toll road companies remained subject to the intangible assets tax, the other companies being brought under the gross receipts tax.³

Year	No. of national banks.	Capital stock and surplus.	No. state banks and trust cos.	Capital stock and surplus.
1866	4	\$ 452,000	...	.....
1875	10	1,460,000	...	.....
1880	13	1,579,000	...	.....
1885	68	8,882,000	...	.....
1890	189	25,760,000	...	.....
1895	214	26,325,000	...	.....
1900	223	25,337,000	...	.....
1905	440	42,756,000	29	\$ 1,936,000
1910	519	65,745,000	621	22,821,000
1912	515	72,096,000	728	31,176,096

¹Message of Governor Lanham, January 12, 1905. Laws of 1905, p. 351.

²Laws of 1907, p. 469. Report of the Tax Commissioner, 1906 and 1908. The franchise and other intangible properties of the companies not subject to the intangible assets tax are taxable, though there is no special method provided for ascertaining and assessing them. Laws of 1905, p. 357. Rev. Civil Stats., 1911, art. 7414. *Dallas v. Street Railway*. 95 Tex., 268 (1902).

CHAPTER 7.

GENERAL OCCUPATION OR LICENSE TAXES.

Until 1907 Texas had a very extensive system of license taxes. There was considerable increase of these taxes in 1879 over the rates prevailing in 1876, and in 1881 when a reduction of taxation became possible, reduction was made in the *ad valorem* rather than in the license taxes.¹ General revisions of the rates were made in 1881, 1882, 1889 and 1897. As some one hundred and twenty-five different items were concerned, it is impossible to follow the changes in each one.

The famous Bell Punch Law enacted in 1879 to apply to liquor dealers was a failure and a scandal and was repealed in 1881.² Replacing it were fixed license charges of \$300 and \$200, according as liquor was sold in quantities of less than one quart, more than five gallons, and one quart and less than five gallons, and a charge of \$50 for the sale of malt liquor only.³ In 1897 the privilege of selling liquor upon prescription in local option territory was made taxable at \$200.⁴ In 1907 the rates for dealers of liquor in any quantity, including those selling upon prescription, were raised to \$375 and the rate for malt dealers exclusively was increased to \$62.50.⁵

The tax of \$200 on commercial travelers, known as "the Drummers' Tax," and imposed in 1879, was reduced to \$50 in 1881 and \$35 in 1882, and was severed of any connection with the occupation tax on merchants. In 1888 it was held by the Su-

¹Message of Governor Roberts, January 13, 1881. For criticism see *Galveston News*, January 14, 1881.

²Laws of 1881, p. 21. *Galveston News*, January 14, 1881, speaking editorially of this law said the urgent thing was "to get rid of the enormous scandal of its corpse putrefying in the midst of the state's statutes and administrative functions and polluting far and wide the moral atmosphere." See also the message of Governor Roberts, January 11, 1881.

³Laws of 1893, p. 177. *Francois Glozza v. Patrick Tiernan*, 148 U. S., 657 (1893).

⁴Laws of 1897, Reg. Sess., p. 223.

⁵Laws of 1907, p. 258. Rev. Civil Stats., 1911, art. 7427.

preme Court of the United States to be an unconstitutional interference with interstate commerce, in so far as it applied to drummers representing foreign houses or houses doing business in other states.¹ It was not re-enacted so as to apply only to drummers of domestic houses doing a state business.

The tendency of legislation dealing with the license taxes has been to reduce the taxes on the so-called useful occupations and to increase those on pursuits which smack of quackery and charlatanry or which are regarded as socially harmful. The taxes on merchants were decreased in 1881 and 1882, and until 1889 there were seven classes of merchants on the basis of the amounts of their purchases of merchandise. In 1889 four classes were added and the maximum tax was made \$300 instead of \$125. There remained eleven classes with rates varying from \$3 to \$300 until the taxes were repealed in 1907. The other occupations relieved in 1907 of a license tax were bankers and brokers; cotton, wool, and hide buyers; dealers in cotton seed products; dentists in the county of their residence; grain elevators; hacks and other vehicles for hire; local insurance agents; land agents; steam laundries; lawyers; livery and feed stables; photograph galleries; toll bridges; and wagon yards.² The receipts from the taxes on the occupations thereafter exempt amounted in 1907 to \$249,175. The tax on resident physicians and surgeons was repealed in 1899. The taxes which remain may be divided into five general classes:

(1) Those on occupations supplying amusements or pleasure. Under these fall nine and ten pin alleys, baseball parks, circuses,³ concerts, exhibitions of acrobats, menageries, wax works, sleight-of-hand performances, exhibitions given by medicine, electric belt and such like vendors; flying jennies, phonograph, graphophone, and motion picture shows; knife, cane, doll and other such racks; race tracks, shooting galleries, skating rinks, and theaters. The arguments in support of the taxation of these occupations are that those engaged in them have tax ability

¹Ex-parte Asher, 23 Texas Crim. App., 662 (1887). *Asher v. Texas*, 128 U. S., 129 (1888).

²Laws of 1907, p. 57. Rev. Civil Stats., art. 7355.

³Laws of 1911, p. 142.

which cannot be reached by the property tax, and that in the case of several they are occupations which need either discouragement or slight repression. Exhibitions by associations for the promotion of art, science, and charity, concerts given for charitable or literary purposes, and museums composed entirely of the products of Texas are exempt from the payment of occupation taxes.

(2) Those on peripatetic occupations. Among these are peddlers; canvassers; traveling vendors of patent medicines; traveling medical specialists, surgeons, oculists, and other specialists; and itinerant merchants selling bankrupt stocks. Peddlers of literature, poultry, vegetables, fruits or other country produce exclusively are exempt, as are also salesmen for merchants engaged in the wholesale drug business. The act of 1897 exempted from the peddlers' tax the blind, deaf and dumb, wounded persons, those who had lost a hand or a foot, and ex-Confederate and ex-Federal soldiers; but these exemptions were held to be in violation of the "equal and uniform" provision of the constitution and therefore invalid.¹

The explanation for these taxes is that the occupations are not easily reached by the property tax and that they compete with

¹Ex-parte Jones, 38 Texas Crim. Rep., 482 (1897). That part of the act of 1897 taxing peddlers of clocks, cooking stoves, washing machines, churns, wagons and other vehicles \$350 and exempting from this special tax merchants who had paid the merchants' occupation tax of less amount was declared unconstitutional; Ex-parte Overstreet, 39 Texas Crim. Rep., 474 (1898). The occupation tax act was amended 'n 1899 to conform to these decisions. Traveling vendors of tinware and earthenware were dropped from the exempt list by this amendatory act; Laws of 1899, p. 201. A tax which was first levied by the occupation tax law of 1881 and which applied to solicitors of orders for photographs, enlarged crayon pictures and the like, was declared an unconstitutional interference with interstate commerce when applied to solicitors of a foreign corporation; Ex-parte Holman, 36 Texas Crim. Rep., 255 (1896). It was also held in French v. State, 42 Texas Crim. Rep., 222 (1900), that a peddler of organs for an organ company of another state was not liable for a state occupation tax when he sold organs in the original package as it were; but this decision was overruled in Saulsbury v. State, 43 Tex. Crim. Rep., 90 (1901), the court following Emert v. Missouri, 156 U. S., 296 (1894).

the established local business houses and the settled professional men.

(3) Those on persons engaged in the commission business, on cotton brokers, merchandise brokers, electric light companies, gas companies, ice dealers, credit associations, insurance adjusters, industrial insurance agents, lightning rod dealers, auctioneers, money lenders, pawnbrokers, sewing machine dealers, ship brokers, street railways, and water works.¹ Revenue is the chief consideration in the imposition of these taxes, and in the case of many of them there is tax ability, but little property to be reached by the property tax. There are also certain charges levied in connection with the state regulation of the fish and oyster business which are to be considered as occupation taxes rather than as license fees, and which fall under the present class of occupation taxes. The regulation of coast fishing and oystering goes back to 1895, and there have been many changes in the restrictions and charges imposed. Until 1903 the occupation tax upon any one fishing for the market within the public coast waters was on the basis of the fathoms of seines and nets used, and the charge upon those engaged in gathering oysters was on the basis of the pairs of tongs used.² The act of 1903 adopted as a basis the weight of the fish and oysters. In 1903 also there was introduced an annual license charge of \$1 for each person engaged in the business of fishing, but in 1905 this was succeeded by a license charge of \$10 per fishing boat.³ In 1909 a tax upon wholesale dealers in fish and oysters was introduced.⁴ The charges in effect in 1914 were a tax of one-fifth of one cent per

¹The tax in the act of 1897 upon cotton, wool and hide buyers, but exempting merchants who had paid the occupation tax on merchants, was declared to be lacking in uniformity and therefore unconstitutional; *Poteet v. State*, 41 Texas Crim. Rep., 268 (1899). A tax on barbers imposed in 1907 was held to be unconstitutional as being an occupation tax on a mechanical pursuit; *Jackson v. State*, 55 Texas Crim. Rep., 557 (1909). The tax imposed by the act of 1897 on sewing machine peddlers when the merchant dealer was exempted was held to be unconstitutional; *Ex-parte Fritz Bockhorn*, 62 Texas Crim. Rep., 651 (1911).

²Laws of 1895, Reg. Sess., p. 170. Laws of 1899, p. 312. Laws of 1903, p. 189.

³Laws of 1905, p. 128. This tax was upheld in *Raymond v. Kibbe*, 43 Texas Civ. App., 209 (1906). Laws of 1907, p. 233.

⁴Laws of 1909, p. 325.

pound on all fish, turtle, terrapin, and shrimp taken for market from the public coast waters; a tax of two cents per barrel on oysters gathered from the natural reefs or private oyster beds within the public coast waters; a charge of \$1 for a boat license to engage in the business of fishing or of gathering oysters; and a tax upon wholesale dealers in fish and oysters of \$1 for each one thousand pounds of fish and of one cent per barrel of oysters.¹ These taxes were payable to the game, fish, and oyster commissioner or his deputies, and by him were turned over to the state treasury.

Hunting licenses began to be required in 1907. The charge upon a non-resident of the state was \$15, payable to the game, fish, and oyster commissioner; the charge for hunting outside one's county was \$1.75, payable to the county clerk, who in turn remitted all but twenty-five cents to the game, fish, and oyster commissioner.²

Neither the report of the game, fish, and oyster commissioner nor the report of the comptroller itemizes the receipts as to sources, and it is therefore not possible to separate taxes, fees, fines, and rents. The total receipts in 1914 were \$42,540; the total disbursements were \$41,258.

(4) Those on occupations which are regarded as socially harmful or in need of regulation. These include billiard and pool halls, beer and liquor saloons, cigarette dealers, selling pools on horse races and other contests, clairvoyants, mesmerists and fortune tellers. Revenue and sumptuary considerations prevail in the taxation of these occupations.

(5) Those on occupations which are to be repressed.³ These

¹Laws of 1913, Reg. Sess., p. 297. Laws of 1913, Called Sess., p. 33.

²Laws of 1907, p. 356. Laws of 1909, p. 456.

³Besides the taxes enumerated below there were at one time a tax of \$500 upon the occupation of selling the Illustrated Police News, the Kansas City Sunday Sun, and like publications, and a tax of \$500 upon fights staged between animals. These taxes were omitted from the Revised Civil Statutes of 1911, inasmuch as the Penal Code, art. 509, prohibits directly the dissemination of the literature which it was sought indirectly to repress through taxation, and as art. 1510 of the Penal Code prohibits directly fights staged between animals. For the tax on the undesirable publications see *Thompson v. the State*, 17 Texas Crim. App., 253 and the Report of the Attorney General, 1895-1896, p. 5.

are a tax of \$250 in each county upon the peddling of cook-stoves, washing machines, churns, wagons and other vehicles,¹ a tax of \$500 upon the occupation of selling cannon fire crackers and toy cartridge pistols,² the tax of \$4,000 on those soliciting or taking orders for liquor in local option territory;³ the tax of \$2,000 on a "cold storage";⁴ the tax of \$5,000 upon an office delivering C. O. D. liquor packages;⁵ the tax of 50 per cent upon the gross receipts of pistol dealers;⁶ and the tax of \$2,000 on any retail dealer in non-intoxicating malt liquors.⁷

The only graduation attempted in the present occupation taxes is for gas, water, and electric light companies; wholesale dealers in ice; cotton factors; commission merchants; and theaters; in all of which cases the taxes vary according to the population of the town or city.⁸ The tax on peddlers varies according as they are on foot or have one or more horses or oxen. The taxes on many of the occupations which were relieved of taxation in 1907 had been graduated according to population,

¹Rev. Civil Stats., 1911, art. 7355, sec. 12. Peddlers of clocks and of agricultural implements are subject to this tax.

²Rev. Civil Stats., 1911, art. 7356.

³Ibid., art. 7479.

⁴Ibid., art. 1480.

⁵Ibid., art. 7483.

⁶Ibid., art. 7380. Sustained in *Caswell & Smith v. the State*, 148 S. W. Rep., 1159 (1912). For a time a popular method of evading this tax was to lease pistols for a lump sum equal to the price of the pistol. This practice was pronounced an illegal and invalid evasion of the law. See Report and Opinions of Attorney General, 1912-1914, p. 670.

⁷Rev. Civil Stats., 1911, art. 7476. A tax of \$5,000 imposed in 1905 upon persons dealing in the unearned wages of another was declared unconstitutional, because of certain exemptions; *Owens v. the State*, 53 Texas Crim. Rep., 105 (1908). The act of 1907 levying a tax of \$2,000 upon dealers in non-intoxicating malt liquors was held to be unconstitutional because of the exemption of druggists and certain other classes of dealers; *Ex-parte Woods*, 52 Texas Crim. Rep., 575 (1908). But this law was re-enacted in 1909, and was upheld in *Ex-parte Townsend*, 64 Texas Crim. Rep., 350. From 1879 to 1897 a tax of \$1,000 rested on nine and ten pin alleys, and from 1889 to 1897 a tax of \$1,000 stood against fortune tellers.

⁸Rev. Civil Stats., 1911, art. 7355.

while those on merchants had been graduated according to the probable purchases during the year.

There has been considerable evasion of the occupation taxes. The law contemplates that the county collector of taxes shall demand the tax and if the person fails or refuses to pay, it becomes the collector's duty to file complaint before a justice of the peace. It is a misdemeanor, punishable by a fine of from \$50 to \$500, for the collector not to collect or endeavor to collect the tax. Laxity, however, long characterized collections, and collectors have been charged with favoring their friends.¹

The general occupation or license taxes have constituted next to ad valorem taxes the source of largest tax receipts. Their percentage and even absolute amount among receipts are on the decline, however. Exclusive of the fish and oyster taxes, they made up 25.6 per cent of total tax receipts in 1881; 21 per cent in 1887; 21.8 per cent in 1891; 20.2 per cent in 1901; 14.9 per cent in 1907; 10.8 per cent in 1910, and 7.1 per cent in 1915. On account of the repeal in 1907 of a large number of the taxes and because of the spread of liquor prohibition, the net receipts to the state decreased from \$1,070,882 in 1907 to \$852,490 in 1910, but there has been an increase since 1910.² The taxes on liquor dealers have always been the most remunerative ones, and next to them since 1907 have been those on billiard and pool halls. Those on liquor dealers provided in 1915 85.7 per cent of the total occupation tax receipts, and those on liquor, billiard and pool establishments provided together 90.4 per cent of such receipts.³ The payment of a general occupation tax does not exempt the occupation from the property tax or other taxes.

¹Report of the State Revenue Agent, 1898. Report of the Special Tax Commission, 1899, p. 32. In 1898 out of 27,169 merchants in Texas reported by Bradstreet, 20,311 paid an occupation tax, and in 1900 out of 4,000 lawyers only 2,010 paid the license tax; Report of the State Revenue Agent, 1898 and 1900. Circuses attempted evasion of the taxes on them by calling themselves "exhibitions" and "shows," by pretending to have a continuous performance, and by selling tickets for 49 cents and 99 cents instead of at 50 cents and \$1.00, but these subterfuges did not succeed; Report of Special Tax Commission, 1899, p. 28; Report of the State Revenue Agent, 1910.

²See Appendix, table 10.

³Based upon table No. 11 of the Report of the Comptroller, 1915.

CHAPTER 8.

CORPORATION OCCUPATION TAXES.

The development of special taxes applying to corporations or to businesses conducted customarily under the corporate form is the most striking feature in the history of taxation in the state since 1880. In 1880 the only taxes of this character were on life, fire, and marine insurance companies; express companies; palace, sleeping and dining car companies; railroad companies; gas companies; and the steamboat and stage coach business. Receipts from all these amounted in 1881 to only \$30,542, which was 1.2 per cent of the total tax receipts. At the present time every important commercial business, except chiefly the mercantile and general manufacturing, is subject to special occupation taxes which in 1910 brought in \$770,698 or 9.8 per cent of the total tax receipts and in 1915 \$1,071,473 which was 8 per cent of total tax receipts. The businesses selected for this special taxation are mainly those engaged with transportation, transmission, and insurance. The development is best shown by taking up the principal businesses in order.

A. *Railroads.*

The 1 per cent tax on the gross receipts from passenger travel within the state which was first levied in 1879 was reduced to one-half of 1 per cent in 1882. There was agitation within the legislature in 1888 to increase the tax to 1 per cent on passenger and freight receipts, but the only result was to restore in 1889 the tax on passenger receipts of 1 per cent.¹ The tax of 1 per cent on passenger earnings only was retained until 1905.² The act of 1905 imposed a tax of 1 per cent upon the gross receipts from the passenger, freight, and baggage business of railroads.³ In the case of an interstate road the tax to be paid was to be "equal to such proportion of the said one per centum of its

¹Galveston News, April 19, 1888.

²In 1895 a strong effort was made to increase the rate to two per cent, but it failed; Houston Post, March 6 and 7, 1895.

³Laws of 1905, p. 336.

gross receipts as the length of the portion of such line within the state bears to whole length of such line," though it was permitted to the comptroller to substitute for this mileage rule any other rule which would be more fairly representative of the state's share of the total gross receipts. It was also provided that any road which paid the tax on intangible assets should be exempt from the payment of the gross receipts tax. The employment of this tax was denied to counties, towns, cities, and other local taxing units. Though levied exclusively as a state tax it was in addition to the state tax on the real and personal property of a railroad.

The test suit which determined the fate of the gross receipts tax was filed by the attorney general of Texas against the Galveston, Harrisburg and San Antonio Railway Company et al., in 1905, and resulted in a judgment in the district court in favor of the state, except as to penalties and forfeitures. The companies appealed and on March 21, 1906, a court of civil appeals held the statute unconstitutional.¹ Upon being carried to the supreme court of the state, that court held the act to be constitutional, except as to penalties and forfeitures, which were declared to be excessive.² The case was removed to the Supreme Court of the United States in December, 1906, and on May 18, 1908, that court reversed the decision of the supreme court of Texas and held the act to be unconstitutional as an attempt to regulate interstate commerce.³

¹Galveston, H. and S. A. Ry. Co. v. Davidson, 93 S. W. Rep., 436 (1906).

²100 Tex., 153 (1906).

³210 U. S., 217 (1908). The statute provided that railroads should pay an annual tax "equal to one per centum" of their gross receipts, and the interpretation of the state supreme court that this was an occupation tax whose operation in interstate commerce was incidental, not direct, was accepted by Chief Justice Fuller and Justices Harlan, White and McKenna of the U. S. Supreme Court who dissented from the majority decision. The distinction between the Texas tax and the Maine tax, which was sustained in 142 U. S., 217, seems to be that the Maine tax was in the nature of a "commutation" tax in lieu of all other taxes upon the roadbed of the railroad, while the Texas tax was in addition to all other taxes; State and Local Taxation, 1911, pp. 188-192.

Railroads are taxed at present only by the property tax on their real and personal property, including intangible. They are exempt from payment of the franchise tax.¹

B. Sleeping, Palace, and Dining Car Companies.

In 1880 these companies were subject to an ad valorem tax of one-half of one per cent upon the value of their property in the state. In 1881 it was provided that "from every person, firm or association of persons owning or running any palace, sleeping, or dining-room cars not owned by the railway company, on any railroad in this state, there shall be collected an annual tax of \$2 per mile for each and every mile of any and all railroads in this state over which such cars may run." This tax was to be in lieu of all other taxes, and could not be employed by any county or municipality. Upon being tested in the courts, it was declared unconstitutional, because it did not apply to all persons owning and running such cars.² In 1882 this defect in the law was cured and the tax was reduced to 50 cents. The tax was paid by the Pullman Company up to August 31, 1884, but from then until August 31, 1886, none was paid and from 1886 to 1894 only \$83 was paid annually and that by the H. & T. C. Railroad on one car between Austin and Houston. The companies declined to pay the tax on the ground that it was an interference with interstate commerce, and no action was taken by the state to test it. In 1893 a tax of 25 cents on each \$100 of the capital stock of such companies employed within the state was enacted.³ The method of computing the state's share of the capital stock as laid down in the statute was that it should be "such proportion of the capital of such company, after deducting therefrom the amount shown to be invested in real estate, manufacturing plants, materials and properties, other than such sleeping, palace, or dining cars and their equipment or properties used in connection with the operation of such cars, as the miles over which it runs its cars in this state bear to the whole number of miles

¹Rev. Civil Stats., 1911, art. 7403.

²The Pullman P. C. Co. v. State of Texas, 64 Tex., 274 (1885).

³Laws of 1893, p. 156. Rev. Civil Stats., 1911, art. 7375.

in this state and other states over which such cars may run." This tax was in addition to other taxes in force, but no occupation tax could be levied upon such companies by any county, city, or town. Upon data furnished by the companies to the comptroller, the latter computes the tax. This tax has been paid regularly by the Pullman Company. In 1897 a tax of 10 cents for each 100 miles over which cars ran within the state was enacted to replace the one of 50 cents per mile, but two weeks after enactment it was repealed and succeeded by a tax of 2½% on the gross receipts from passenger travel originating and ending within the state. This tax was payable quarterly to the state treasurer. This gross receipts tax was in addition to the one of 25 cents on the capital stock. It was denied to a county, city, or town to levy an occupation tax upon a company doing this business.¹ In 1905 the rate was raised to 4% on gross receipts, except those from buffet service, and in 1907 to 5%. In 1910 the proceeds of the gross receipts tax were \$33,845; those of the capital stock tax, \$2,908. In 1915 the proceeds were, respectively, \$39,628 and \$5,157.

C. Express Companies.

In 1880 an express company was subject to a fixed annual occupation tax of \$750, but \$250 of this amount was apportioned by the comptroller among the counties according to the business done in each, and there could be no other county or municipal occupation taxes upon such companies. In 1881 the full \$750 was made to accrue to the state, and it was still not permitted to counties and municipalities to levy an occupation tax on the express business. The fixed annual tax was decreased to \$500 in 1882, but was raised to \$1,000 in 1889. In 1895 it was replaced by a tax of 1½% on gross receipts.² In 1905 the rate was increased to 2½%. Express companies are also subject to the property tax and to the franchise tax. In 1910 the gross receipts tax amounted to \$64,620; in 1915, \$73,081.

¹Laws of 1897, Reg. Sess., p. 168. Rev. Civil Stats., 1911, art. 7390.

²The Mills Bill proposed a tax of 2 per cent, but the senate finance committee recommended one of 1½ per cent; Houston Post, January 27, February 1, March 6 and 7, 1895.

D. Telegraph Companies.

In 1880 the occupation tax on a telegraph company was one cent for each full rate message and one-half cent for each message less than full rate. Railroad messages in operating trains and company messages were exempt. County and municipal occupation taxes on the companies were not permitted. This tax was contested and was declared unconstitutional because it taxed interstate messages.¹ In 1882 the same rates were made to apply only to intrastate messages. This remained the occupation tax on the companies until 1905, when it was succeeded by a tax of 3% on the gross receipts from all sources within the state. In 1907 the rate was reduced to 2¾%. Telegraph companies are subject also to the property tax and to the franchise tax, except when operating under a Federal franchise. In 1910 the gross receipts tax amounted to \$14,659; in 1915, \$24,272.

E. Telephone Companies.

The first occupation tax imposed by Texas on telephone companies was in 1882, and was a state tax of \$50 and a county tax of \$10. The state tax was, unlike the other corporation occupation taxes, collected by the county collector. In 1892 the receipts from it were \$200. In 1893 a state tax of 25 cents on each telephone in use replaced the fixed tax, and it was denied to counties and municipalities to levy any occupation tax on the business. This state tax was payable to the state treasurer, and it produced in 1894 \$1,158. This remained the method of taxation until 1905, when a tax of 2½% on gross receipts was enacted. In 1907 the rate was reduced to 1½%, payable quarterly to the state treasurer.² Telephone companies are subject to the property tax and the franchise tax, but to no county or municipal occupation taxation. In 1910 the gross receipts tax produced \$81,350; in 1915, \$150,728.

¹W. U. Tel. Co. v. State of Texas, 105 U. S., 460 (1881). See also 55 Tex., 314 (1881), and 62 Tex., 630 (1884).

²Rev. Civil Stats., 1911, art. 7382.

F. Steamboats and Stage Coaches.

In 1880 there was a tax of 1% on the gross passenger receipts of steamboats and stage coaches. In 1882 it was reduced to three-fourths of 1%, but was increased to 1% in 1889. The stage coach tax disappeared in 1897, and that on steamboats in 1898. The taxes produced insignificant receipts.

G. Street Railways.

The first occupation tax laid by Texas upon street railways was in 1897 and was one of \$2 per mile of track owned. It was collected by the county collector and total receipts were \$567 in 1906. In 1907 it was enacted that street railways in or connecting cities of from 10,000 to 20,000 inhabitants should pay a tax of one-half of 1% on their gross receipts, and those in cities of more than 20,000 inhabitants three-fourths of 1%.¹ This is in addition to the tax of 1897. Street railways and interurbans are not subject to the franchise tax, and there is no county or municipal occupation taxation permitted.² It is payable quarterly to the state treasurer. In 1910 it amounted to \$39,197; in 1915; \$62,590.

H. Gas, Water, and Electric Companies.

Only gas companies were subject to an occupation tax in 1880. It was one of \$50 and applied only to plants in cities of 10,000 or more inhabitants. It was collected by county collectors, and its use was permitted to counties, towns, and cities. In 1881 the tax was made to apply in all towns and cities irrespective of population; but in 1882 the tax for plants in cities of 10,000 or more was made \$35. in cities under 10,000, \$20. These remained the rates and method of taxation until 1905. In 1889 electric light plants, and in 1897 water plants became taxable after the manner and to the amount that gas plants were. In 1904 the total tax paid by all was \$4,665. In 1905 a tax of one-fourth of 1% on the gross receipts was enacted to apply to all. Counties and municipalities are not permitted to employ the tax. In 1907 the rate was changed

¹Rev. Civil Stats., 1911. arts. 7378 and 7355. sec. 34.

²Dallas Con. Elec. St. Ry. Co. v. State, 102 Tex., 570 (1909).

to one-fourth of 1% in cities with a population of from 10,000 to 25,000, and one-half of 1% in cities having a population of 25,000 and over.¹ The tax is in addition to all other taxes, and companies are subject to the property tax and the franchise tax. In 1910 the gross receipts tax paid amounted to \$22,924; in 1915 it was \$44,007.

I. Insurance Companies.

(a.) *Life.* In 1880 life insurance companies were subject to a state occupation tax of \$300, payable annually to the comptroller, and to a county tax of \$10. The county tax was reduced to \$7 in 1882, but was increased to \$10 in 1889. In 1893 a tax of $1\frac{1}{4}\%$ on gross premium receipts within the state was enacted. It was made payable to the state treasurer, and the levy of an occupation tax on companies was denied to any county, city, or town.² In 1895 a strong effort was made to increase the tax, but the result was to impose an occupation tax of \$50 on general agents and one of \$7 on local agents of the life companies, and one of \$2 on agents of industrial life companies.³ In 1897 the gross receipts tax was increased to 2%, and the tax on local agents was reduced to \$5.⁴ In 1905 there were two enactments, but the later and prevailing one levied a tax of $2\frac{1}{4}\%$ on gross premium receipts, and provided for a reduction to $\frac{1}{2}$ of 1% and $\frac{1}{4}$ of 1% should the companies invest as much as one-quarter and one-half of their entire assets in Texas real estate or Texas securities.⁵ Fraternal insurance orders were exempt. The "Robertson Law" of April 24, 1907, required companies doing a life insurance business in Texas to invest and keep invested in Texas real estate and Texas securities not less than 75% of their legal reserve on account of policies written on the lives of citizens of Texas. In 1907

¹Rev. Civil Stats., 1911, art. 7355, secs. 25, 26, 27.

²The feeling about this tax as expressed by the Austin correspondent of the Galveston News in the issue of February 18, 1893 was that "it salts the life companies, and they have few enthusiastic friends."

³Houston Post, March 14, 15, and 21, 1895.

⁴The increased rate was urged by the governor; Houston Post, March 24, 1897.

⁵Laws of 1905, p. 373.

the gross receipts tax was increased to 3%, but any company complying with the Robertson Law was subject to a tax of only 1%; also if any company should invest as much as 25% of its entire assets in Texas securities or Texas real estate, the tax became 1%, and if it should invest as much as 50%, the rate became $\frac{1}{2}$ of 1% on its gross premium receipts.¹ Fraternal orders were exempt. Companies which failed to subscribe to the law became subject to a penalty of \$5,000 and double the amount of the tax for each year delinquent. This tax was in lieu of all other occupation taxes. In 1907 were repealed the occupation taxes on local and general agents of insurance companies, except industrial life. In 1909 a distinction was made in the methods of taxing domestic and foreign life companies. Domestic life companies, or those incorporated by this state, were relieved of an occupation tax and became taxable only by the property tax, the base of the tax being the value of their real estate and personal property less reserve.² Foreign insurance companies remained subject to the tax of 3% upon gross premium receipts, and it was provided that if as much as 30% of the total Texas reserves should be invested in Texas real estate securities, the tax should be 2.6%; if as much as 60%, 2.3%; if as much as 75%, 2%. The requirement that at least 75% of the Texas reserves should be invested in Texas real estate or Texas securities remained unchanged.³ This requirement, which was first made in 1907, led to the withdrawal from the state of the leading old line companies, and the merits of the requirement have been hotly debated.⁴

(b.) *Other Insurance Companies.* Fire and marine insurance companies were subject until 1882 to a state annual occupation tax of \$200 and to a county tax of \$10. In 1882 guaranty,

¹Laws of 1907, p. 482. *Metropolitan Life Ins. Co. v. T. B. Love*, 101 Tex., 444 (1908). Report of the Attorney General, 1906-8, p. 44. *Kansas City Life Ins. Co. v. Love*, 101 Tex., 531 (1908) refers to a temporary exemption to companies which had to deposit in their home state securities covering their entire reserve.

²Laws of 1909, p. 192. Rev. Civil Stats., 1911, arts. 4764, 4825.

³Laws of 1909, p. 264. Rev. Civil Stats., 1911, art. 4779.

⁴Message of Governor Ferguson, April 29, 1915; House Journal, 34th Leg., First Called Sess., p. 7.

accident, health, and livestock insurance companies were added to the taxable list, and the state tax was made the same as that on fire and marine companies, though the county tax was made \$7 for all companies, including fire and marine.

These rates remained unchanged until 1893, when a tax of one-half of 1% upon gross premium receipts within the state was enacted to apply to all insurance companies. In 1895 occupation taxes of \$50 on general agents and \$7 on local agents were enacted. In 1897 the rate on fire insurance companies was left at one-half of 1%, while that on others was increased to 1%. In 1905 the tax on the gross receipts of surety and guaranty companies was increased to 2%: on the gross receipts of fire and other insurance companies, $1\frac{3}{4}\%$.¹ The rate applicable to these insurance companies was subject to reduction as in the case of the life companies, according to the proportion of assets invested in Texas real estate and securities. The legislation of 1907 which required at least 75% of the reserve on Texas policies to be invested in Texas was applicable only to life companies. In 1907, however, the gross receipts tax on all companies other than life was increased to a flat rate of 2%. In 1911 it was increased to 26/10%, subject to reduction to 1% if the company invested as much as one-fourth of its entire assets in Texas real estate or other legal investments, and to one-half of 1% if as much as one-half of the entire assets should be invested.² Purely co-operative or mutual fire insurance companies were not made taxable, and no distinction was made between domestic and foreign companies, as was made in the case of life companies. In 1909 a Fire Rating Board was established with the power to regulate the rates of fire insurance. It was provided that the expenses of the board should be assessed upon the companies in the proportion which the gross premium receipts of each bore to the aggregate of premium receipts. Though the assessment is called a tax, it is not technically a tax.³

The taxes on insurance companies have always been the most productive of all the special occupation taxes, except the gross

¹Fire Assn. of Phila. v. Love, 101 Tex., 376 (1908).

²General Laws, 1911, p. 216.

³See Firemen's Fund Ins. Co. v. Von Rosenberg, 103 Tex., 571 (1910).

passenger earnings tax in its early days. In 1881 insurance companies paid \$13,466 or 44 per cent of the total received by the state from special occupation taxes; in 1891, \$33,716, or 34.6 per cent; in 1895, \$63,783, or 47.6 per cent; in 1900, \$115,455, or 56.4 per cent; in 1905, \$204,422, or 53.5 per cent; in 1910, \$364,825, or 47.3 per cent; in 1915, \$486,371, or 45.3 per cent.

J. Other Occupations.

Credit agencies were first taxed by Texas in 1889, and the tax was \$250 annually, but no county or city taxation of them was permitted. This was increased to \$300 in 1897 and remained at that amount until 1905.

In 1905-7 the occupations which became subject to the gross receipts method of taxation were, with the rate of the tax, as follows: collecting or commercial agencies and commercial reporting credit agencies, $\frac{1}{2}$ of 1%; car companies, 3%; dealers in futures, $1\frac{1}{4}$ %; oil producers, $\frac{1}{2}$ of 1%; pipe line companies, 2%;² pistol dealers, 50%;³ publishers of school text books and law books, 1%; terminal companies, 1%; wholesale dealers in oil refined from petroleum, 2%;⁴ wholesale liquor dealers, $\frac{1}{2}$ of 1%.⁵ As dealing in futures was prohibited in 1907 the tax on such dealers disappeared in 1907.⁶ Wholesale liquor dealers, pistol dealers and terminal companies were first taxed in 1907.⁷

¹The Texas Co. v. Stephens, 100 Tex., 628 (1907).

²Ibid.

³Eppstein v. State, 138 S. W. Rep., 1124. Caswell & Smith v. State, 148 S. W. Rep., 1159.

⁴The Texas Co. v. Stephens, 100 Tex., 628. Southwestern Oil Co. v. State of Texas, 100 Tex., 647, and 217 U. S., 114 (1910). Report of Attorney General, 1904-6, pp. 32-33; 1906-8, pp. 34-35; 1908-10, p. 41.

⁵For amendatory act see Laws of 1913, Reg. Sess., p. 33.

⁶Laws of 1907, p. 172.

⁷For the taxes based on gross receipts see Rev. Civil Stats., 1911, arts. 7369-7392.

CHAPTER 9.

CORPORATION FRANCHISE TAXES.

Prior to 1893 there was no special taxation of franchises, but they were subject to taxation as property under the property tax. Governor Hogg suggested in 1891 an annual franchise tax, but it was not until 1893 that one was enacted.¹ It was then provided that each domestic corporation and every foreign corporation doing business in Texas should as a condition precedent to doing business pay on or before May 1 to the secretary of state an annual franchise tax of \$10. Corporations organized for the purpose of religious worship, or for holding burial places not for private profit, or for school purposes, or for purely public charity were exempt. In 1897 graduation of the tax on domestic corporations from \$10 to \$50 according to the amount of capital stock was introduced.² Different graduation and higher rates were applied to foreign corporations, and there was no maximum payment fixed for them as was done for domestic corporations. Railroad corporations paying the gross passenger earnings tax, and corporations organized for the purpose of holding agricultural fairs and encouraging agricultural pursuits were added to the list of exempt corporations. Greater refinements of graduation which resulted in an increase in the tax were made in 1905, and it was also provided then that the tax should be computed upon the basis of the authorized capital stock, unless the aggregate amount of the capital stock issued plus the surplus and undivided profits exceeded the authorized capital stock, in which case the

¹Messages of Governor Hogg, January 21, 1891 and January 12, 1893. Laws of 1893, p. 156.

²Laws of 1897, Reg. Sess., pp. 140, 168. Report of Secretary of State, 1898, p. 4, and 1904, p. 5. Report of the Attorney General, 1898, p. 11; 1900, p. 12. *Arkansas Building and Loan Asso. v. J. W. Madden*, 91 Tex., 461 (1898).

larger amount should be the basis.¹ In 1907 the rates were changed and increased.²

The rates on domestic corporations enacted in 1907 which are still in effect are 50 cents on each \$1,000 of authorized capital stock up to and including \$1,000,000, and 25 cents on each \$1,000 of stock in excess of \$1,000,000. Should the total amount of capital stock issued and outstanding plus the surplus and undivided profits exceed the authorized capital stock, the tax is 50 cents on each \$1,000 of stock, surplus, and undivided profits. The minimum tax on domestic corporations is \$10. The rates on foreign corporations are \$1 on each \$1,000 of authorized capital stock up to and including \$100,000; \$2 on each \$5,000 of stock over \$100,000 and up to and including \$1,000,000; \$2 on each \$20,000 of stock over \$1,000,000 and up to and including \$10,000,000; and \$2 on each \$50,000 of stock in excess of \$10,000,000. Should the capital stock issued and outstanding plus the surplus and undivided profits exceed the authorized capital stock, the rates on the combined amount remain the same as above except that \$2 is levied on each \$1,000 up to and including \$100,000. The minimum tax on a foreign corporation was fixed at \$25. In addition to corporations organized for religious worship, for providing places of burial not for private profit, for the purpose of holding agricultural fairs and encouraging agricultural pursuits, or for purely public charity, there are exemptions of corporations which have no capital stock and which are organized for the exclusive purpose of promoting the public interest of any city or town. Insurance companies, surety, guaranty, fidelity companies, transportation companies, and sleeping, palace and dining car companies which pay the gross receipts taxes are exempt from the franchise tax. Fraternal organizations also are

¹Laws of 1905, pp. 21, 100. *Gaar Scott and Co. v. O. K. Shannon*, 52 Tex. Civ. App., 634 (1909); 223 U. S., 468 (1911). Report of the Attorney General, 1904-6, p. 34; 1906-8, p. 35; 1908-10, p. 42. The Scott case does not involve the question of the right of Texas to levy a franchise tax upon a corporation engaged in interstate commerce but merely the right of a company engaged only in interstate commerce to recover the tax when it had been voluntarily paid.

²Laws of 1907, p. 502. See also Laws of 1911, Reg. Sess., p. 91. Rev. Civil Stats., 1911, arts. 7393-7406.

exempt. To these exemptions specifically made in the act should be added those corporations which operate under Federal franchises, such as national banks. The Western Union Telegraph Company was judicially declared exempt, because the tax would constitute a burden on interstate commerce.¹

The future of the franchise tax is seriously threatened in a case in which there is contested the right of the state to tax a foreign corporation on the basis of all of its capital stock instead of on such amount only as is employed within the state. A Federal district court granted a preliminary injunction restraining the collection of the tax on the ground that "an imposition which is based, whether in whole or in substantial part, on the value of the property outside of the state, or on interstate or foreign commerce engaged in, so that the amount of it grows in exact proportion to the growth of such property or commerce, is a burden on such property or commerce."²

In 1915 the receipts from domestic franchises were \$401,367, and those from foreign franchises were \$112,618.

Summary of Corporation Taxation.

The history of special corporation taxation in Texas reveals that until 1893 only railroads, steamboats, and stage coaches were taxed by the gross receipts method, while other corporations were taxed lightly by fixed annual payments. The period 1893-1897 was one of deep commercial and financial depression. The populist party, which was strong and aggressive, advocated the heavier taxation of corporations, and the feeling was general that the taxation of insurance, express, and sleeping car companies was extraordinarily light. Governors Hogg and Culberson favored an increase of corporate taxation, and the result was the extension of the gross receipts method and the introduction of franchise

¹Western U. Tel. Co. v. The State, 103 Tex., 306 (1910). A company shipping its manufactured goods into the state, whether sold before or after arrival in the state, is engaged in interstate commerce, and needs no permit to do business in the state; Miller v. Goodman, 91 Tex., 41 (1897). A foreign manufacturing corporation whose products are sold merely on commission by local merchants is engaged in interstate commerce and does not need to secure a permit to do business in the state; Allen v. Tyson-Jones Buggy Co., 91 Tex., 22 (1897).

²Crane Co. v. Looney, 218 Fed. Rep., 260 (1914).

taxation.¹ A period of quiet followed until 1905-1907, when the gross receipts method was further extended and the rates carried by it as well as those of the franchise tax were increased. The extension and increases in these taxes which occurred in 1895-7 and 1905-7 were coincident with a condition of deficiency in the general revenues.

The financial significance of special occupation taxes has steadily grown. Their amount and per cent of total tax receipts at selected dates were:²

Date.	Amount.	Per cent.
1881.....	\$ 30,542.....	1.2
1887.....	40,338.....	1.2
1891.....	97,406.....	2.5
1901.....	231,854.....	4.6
1910.....	770,698.....	9.8
1915.....	1,071,473.....	7.9

The constitution directs that not less than one-fourth of the proceeds of the special occupation taxes shall accrue to the available school fund for the benefit of the public free schools.³ One-fourth is the share customarily set aside.⁴ The ease of administration of this method of taxation commends it, though considerable unfairness may result unless the various rates are carefully devised so as to impose equal taxation.⁵ The financial significance of the franchise tax also has increased. The amount and per cent of total taxes at selected dates were:⁶

¹Message of Governor Hogg, January 12, 1893. *Galveston News*, January 13, 1893. *Houston Post*, February 27, and March 6, 7 and 15, 1895, and March 24, 1897. Messages of Governor Culberson, April 29 and March 5, 1895, and June 18, 1897.

²See Appendix, table 10. The percentages are slightly greater than here stated, because ad valorem, poll, and general occupation taxes are given in gross, not net, amounts.

³Art. VII, sec. 3.

⁴Rev. Civil Stats., 1911, art. 2725.

⁵Evasion of the tax was charged in 1908; Report of the State Tax Commissioner, 1908, p. 16.

⁶See Appendix, table 10. The percentages which franchise taxes are of total tax receipts are, as in the case of the special occupation taxes, greater than here given, because the ad valorem, poll, and general occupation tax amounts are gross amounts, while the special occupation and franchise tax amounts are net amounts.

Date.	Amount.	Per cent.
1894.....	\$ 23,350.....	0.6
1910.....	449,667.....	5.7
1915.....	513,986.....	3.8

The franchise tax is a state tax exclusively and the proceeds accrue wholly to the general revenue account.

There has been an important growth not only in the revenue derived from corporations by means of occupation and franchise taxes, but also in the receipts from corporation fees and from the property tax. The proportion which receipts from corporations are of total state revenue can not be exactly stated, but as well as can be ascertained, the proportion was 3.6 per cent in 1882, 8.5 per cent in 1895, and 21.5 per cent in 1915.¹ The percentage which corporation taxes were of all tax receipts was 4.7 in 1882, 10.5 in 1895, and 24.6 in 1915. Does this growth represent a tendency to put the weight of taxation on corporations, or does it represent the growing importance of the corporation as a form of business organization? The answer probably lies between. On account of the special taxes applying to corporations, it is likely true that they are more nearly taxed in accordance with their ability to pay than are individuals.

¹No assessments of banks or bank stock are given in the comptroller's reports for 1882 and 1895, so taxes on them can not be included among corporate taxes. They are included in the statement for 1915, but if they are excluded, the percentage is 19.7 instead of 21.5. The United States Bureau of Corporations found that in 1912 the proportion of corporate receipts to total receipts in Texas was 20.3 per cent; Report of the Commissioner of Corporations on the Taxation of Corporations in the Southern and Southwestern States, pp. 313-314 (1915). See also the Report of the Texas Welfare Commission, 1912, p. 46 et seq.

CHAPTER 10.

THE POLL TAX.

In 1881 the poll tax levied by the state was \$2, \$1 of which was for general revenue purposes and \$1 for the benefit of the public free schools. Counties and cities were each permitted to levy a tax of \$1. The total poll tax which might be levied was \$4. In 1882 the state tax was fixed at \$1.50, \$1 of which was for the public free schools and 50 cents for general revenue purposes. The tax which counties might levy was fixed at 25 cents.¹ It is not permitted to towns to levy a poll tax, but that which cities can levy is \$1.² These rates have not changed since 1882.

The state and county tax is payable between October 1 and February 1 by every male person between the ages of 21 and 60 who has resided in the state on the first day of January preceding its levy. Those exempted from its payment other than by reason of age and sex are Indians, persons insane, blind, deaf, or dumb, and those who have lost a hand or foot or are permanently disabled.³ Active members of the national guard are exempt from the tax of 50 cents for general revenue purposes.

That payment of the poll tax should be a prerequisite to voting was proposed by Senator A. W. Terrell in 1883, but this was not enacted into law until 1903.⁴ The Terrell Election Law of 1903-5 seeks to prevent the payment of the poll tax by another and selfishly interested person.⁵ Violations of this feature of the law sometimes come to light.⁶ Because the payment of the tax is made a prerequisite to the exercise of the suffrage, it is

¹Laws of 1882, p. 18. Rev. Civil Stats., 1911, art. 7354.

²*Morris v. Cummings*, 91 Tex., 618 (1898). *Perry v. City of Rockdale*, 62 Tex., 451 (1884). Rev. Civil Stats., 1911, art. 927.

³Laws of 1905, p. 520. *Bigham v. Clubb*, 42 Tex. Civ. App., 312 (1906).

⁴Laws of 1903, p. 133. Laws of 1905, p. 520. Rev. Civil Stats., 1911, arts. 2938-2963. *Galveston News*, February 2 and 15, 1883.

⁵*Solon v. The State*, 54 Texas Crim. Rep., 261 (1908).

⁶The Corpus Christi Caller, September 3-18, 1915, for the report of the Federal grand jury on Nueces County election frauds, and for a report of the trial.

sometimes called a fee. In the contemplation of the law, however, it is a tax, for it is expected that every male person within the age limits shall pay it. In intention it is a compulsory payment levied upon persons for the common benefit and so is a tax. For the payment of the poll tax there is a lien on the poll's real and personal property, except the homestead.¹

Evasion of the poll tax has taken place to a great extent.² In 1890 the number of polls assessed was 382,534; the number of these who were insolvent, delinquent, or erroneously assessed was 111,190 or 29 per cent. As the United States Census of 1890 reported 490,632 males between the age of 21 and 60, those who were finally liable for the tax were only 55 per cent of those who were assessable. Padding of the rolls by the assessor in order to get the fee for assessment explains to some extent the great number of those who are insolvent, delinquent or erroneously assessed.³ In 1900 polls assessed numbered 525,823, but of this number 179,028, or 34 per cent, were insolvent, delinquent or erroneously assessed. The census reported 674,697 males within the poll tax age limits, so that those whom the tax finally reached were only 51 per cent of those assessable. In 1910 polls assessed numbered 705,832, those insolvent, delinquent, and erroneously assessed were 170,713, or 24 per cent, leaving 535,119 as the net number taxed. The census gave the male population between the ages of 20 and 59 to be 932,500, and of this number those taxed constituted 57 per cent.⁴ On account of the different age limits of the population compared and because those who were exempted on other grounds than age were not deducted, 60 per cent would perhaps be nearer correct as showing what proportion of those who are liable to the tax paid it. The percentage was

¹Ring v. Williams, 13 Tex. Crim. App., 609 (1896). In this case was upheld the seizure and sale of a sewing machine belonging to the delinquent poll, though he owned not more than two hundred and fifty dollars worth of household and kitchen furniture.

²Report of the State Revenue Agent, 1894. Report of the Comptroller, 1898. Report of the Special Tax Commission, 1899, p. 111.

³Lloyd P. Lochridge, in the Austin Statesman, January, 1913.

⁴The age limits of the census population are not the same as those of the poll tax and the comparison is thereby violated to a certain extent. The census population would be smaller if the poll tax age limits were used.

higher in 1910 than in either 1900 or 1890, and this was without doubt due to the requirement of the payment of the tax in order to vote. But this requirement has not cured evasion, and the condition exists in this state that only owners of real property are sure to be reached.

Elections and agitation of the liquor question have stimulated payment of the poll tax by others than real property owners. In some years campaigns were carried on in the larger cities to secure poll tax payments, and in these campaigns numerous agencies were employed to combat the customary forgetfulness, indifference, and evasion of the average citizen. On the surface it seemed that these campaigns were evidences of rivalry among the cities, but it was charged that the movements were inspired by the liquor interests of the state, and the attorney general's department rendered an opinion that commercial organizations exceeded their charter powers in conducting such campaigns.¹

The requirement of the payment of the poll tax as a prerequisite to voting has been attacked recently by organized labor as constituting an "unjust burden upon the wage worker," and its repeal has been called for.² In the United States the poll tax has been very generally abandoned as a state tax, and in 1913 in only about twenty out of forty-nine states was it levied as a state tax. In only six of the twenty states was the tax used for general purposes; in the others it was principally for school purposes. In only four states, Arkansas, Mississippi, Tennessee and Texas, was its payment a prerequisite to voting.³ Without a marked change either in the administration of the law or in the attitude of the average citizen toward taxation, the breaking of the bond between the poll tax and the vote would be sure to result in the non-payment of the tax except by such property owners as were reached for property taxation, and these would of course be mainly real property owners. The payment of a direct tax by each citizen is advocated by some eminent authori-

¹Austin American, January 8, 1916. This opinion was disregarded by some organizations.

²Proceedings of the Texas State Federation of Labor, 1914, p. 118. Austin American, April 28, 1916.

³U. S. Census on Wealth, Debt, and Taxation, 1913, vol. 1.

ties as causing a livelier interest on the part of the citizen in the expenditures of the government and as making the "people feel that the payment of a tax is a necessary accompaniment of the enjoyment of civil rights."¹ Since under the present methods of taxation the poll tax is the only direct tax paid by many citizens, the repeal of the tax would result in many eligible taxpayers escaping taxation altogether. The tax is not burdensome, except perhaps in cities which levy a poll tax. In such cases the total tax—state, county and city, is \$2.75. In 1913 out of 91 Texas cities with a population of 2,500 and over 69 employed the poll tax.²

State poll tax receipts show a decreasing financial importance. In 1881 they constituted 22.9 per cent of total tax receipts; in 1891, 10.4 per cent; in 1901, 10.2 per cent; in 1915, 6.1 per cent.

¹Bullock, *Selected Readings in Public Finance*, p. 309, quoting Leroy-Beaulieu.

²U. S. Census on Wealth, Debt, and Taxation, vol. 2, p. 546.

CHAPTER 11.

THE INHERITANCE TAX.

The taxation of inheritances was adopted by Texas in 1907. The tax applies to "all property within the jurisdiction of this state, real or personal, corporeal or incorporeal, any interest therein, whether belonging to inhabitants of this state or not, which shall pass, absolutely or in trust by will or by the laws of descent of this or any other state, or by deed, grant, sale or gift, made or intended to take effect in possession or enjoyment after the death of the grantor or donor, . . . passing to or for the use of any person except the father, mother, husband, wife or direct lineal descendant, . . . or any public corporation or charitable, educational or religious organization within this state . . . to be used within this state."¹

There are three schedules and their rates differ according to the degree of relationship and the amount of the bequest. The schedules are as follows:

	1	2	3
		Uncle, aunt, descendant of uncle or aunt.	Any other person.
	p.c.	p.c.	p.c.
Above \$ 500—not above \$10,000 . . . .	..	..	4
Above 1,000—not above 10,000 . . . .	..	3	..
Above 2,000—not above 10,000 . . . 2	..	..	..
Above 10,000—not above 25,000 . . . 2½	4	5½	..
Above 25,000—not above 50,000 . . . 3	5	7	..
Above 50,000—not above 100,000 . . . 3½	6	8½	..
Above 100,000—not above 500,000 . . . 4	7	10	..
Above 500,000	5	8	12

The tax is thus one on collateral heirs, and the rates are mod-

¹Laws of 1907, p. 496. Rev. Civil Stats., 1911, arts. 7487-7502.

erate. It does not avoid double taxation of a vicious sort. Residents of the state are taxable on all tangible property within the state and on all intangible property wherever located, the latter being in accord with the rule that personalty follows the owner for purposes of taxation. Non-residents of the state are taxable on both tangible property and intangible property within the state. This taxation of intangible property of a non-resident is clearly in violation of the rule that personalty follows the owner. Probably a non-resident would be taxed on the shares of stock of a Texas corporation, even when the shares are held outside the state.

The tax is collectible by the county collectors, and they receive one per cent of the amount collected. It is a state tax exclusively, and the receipts accrue to the general revenue fund. During seven years operation the receipts from this tax have averaged only \$32,709 a year. The smallness of the receipts is *prima facie* evidence that the state is losing some revenue through a failure of efficient administration of the law. The loss has been estimated at \$500,000 annually, but this is no doubt an exaggeration.¹ The loss is attributed mainly to the failure of the probate judge to certify to the tax collector the amount of the tax due. The law, it seems, does not provide a fee for the probate judge for certifying the amount, and this oversight of the lawmakers results in a lightening of judicial labors and a lessening of state revenues.

¹Report of the grand jury of Travis County, in the *San Antonio Express*, April 30, 1916. Comptroller H. B. Terrell stated in a speech at Rockwall, Texas, June 24, 1916, that in one county there were 53 estates on which inheritance taxes were unpaid, and he estimated that as least \$1,000,000 was due throughout the state as a whole; *San Antonio Express*, June 25, 1916.

CHAPTER 12.

FEES.

There are administrative, judicial, and educational fees collected. The departments or branches of the state government which receive fees which accrue to the general treasury are the state, comptroller's, attorney general's, banking and insurance, and public health and vital statistics departments, the department of agriculture, the land office, the railroad commission, the game, fish, and oyster commissioner, the state library, and the higher courts. The main University and the medical branch collect fees of matriculates which accrue to the available funds of the institutions. The asylums also collect charges, classed as fees, of their non-indigent residents. There are also numerous state boards which are self-sustaining because of the fees of fixed amounts which they are permitted to charge. These boards are the state board of mine examiners; the boards of examiners of those desiring to teach in the public free schools, to practice law, medicine, pharmacy, veterinary medicine, dentistry, embalming, and nursing; and the board of inspection of hides and animals and of feed stuffs. Except in the case of the last, there are not only no payments into the treasury, but no reports of the amounts collected and retained by the members of the boards. There are maximum amounts of fees which district and other local officers can receive, and any collections in excess go into the county treasury.

The oldest and until 1893 the most productive fees were those charged by the general land office for patents, certified copies, etc. Continuously since 1893, on account of corporation charter and permit fees, the state department has been the most important single source of fee receipts.

There was no change in the fee law of 1879 until 1883, when express companies were added to the list of corporations whose minimum charter fee was \$100, and an increase of \$25 for each \$100,000 of capital stock above \$100,000 was provided for in the case of railway, telegraph, street railway, and express com-

panies.¹ The minimum fee of other private corporations for profit was left at \$25, but an increase of \$5 for each \$10,000 of capital stock above \$10,000 was introduced. The fee for religious and similar corporations was increased to \$10.

In 1887 a foreign corporation was required to file with the secretary of state its articles of incorporation and to take out a permit, and in 1889 permit fees were adopted varying from \$25 to \$200 according to the amount of capital stock of the corporation.² The fees for foreign corporations were lower than for domestic corporations, except in the cases of railway, telegraph, street railway, and express companies. Thus a foreign corporation with a capital stock of \$100,000 paid a fee of \$25, while a domestic corporation with an equal amount of stock paid \$70. A foreign corporation with a capital stock of \$2,000,000 paid a fee of \$200 while a domestic corporation of that size paid \$1,020.³ Following the discovery of oil in South Texas the discrimination came to be felt, but there was no remedial change made until 1905.⁴

In 1907 a great increase in charter and permit fees was made but without any discrimination between domestic and foreign corporations.⁵ In 1909 the fee for corporations not organized for private profit was reduced from \$50 to \$10. At the same time certain other fee changes were adopted.⁶ The minimum fee chargeable to a foreign building and loan company was made \$250; a maximum fee of \$10,000 was stipulated for a foreign corporation engaged in the manufacture, sale, rental, lease or operation of all kinds of cars and for a foreign telegraph company; and the maximum for a foreign company doing a loan business was fixed at \$1,000. Subject to the above, the charter and permit fees in effect in 1915 were as follows: For each charter or amendment of a charter of a private railroad, telegraph, express, or street railway company a fee of \$200 was prescribed, and if the capital stock exceeded \$100,000, an addi-

¹Laws of 1883, p. 72.

²Laws of 1889, p. 87.

³Reports of the secretary of state, 1898, 1900, 1902, 1904.

⁴Laws of 1905, p. 135.

⁵Laws of 1907, p. 500.

⁶Laws of 1909, p. 266. Rev. Civil Stats., 1911, arts. 3837-3858.

tional fee was charged of fifty cents for each \$1,000 of authorized capital stock or fractional part thereof after the first. The charter fees of other corporations organized for private profit was \$50, but if the authorized capital stock exceeded \$10,000, there was an additional fee of \$10 for each additional \$10,000 of the authorized capital stock or fractional part thereof after the first. Each foreign corporation in obtaining a permit to do business in the state had to pay a fee of \$50 for the first \$10,000 of its authorized capital stock, and \$10 for each additional \$10,000 or fractional part thereof.¹ The so-called "Blue Sky Law" passed in 1913, imposed upon corporations subject to its provisions the filing of a descriptive document with the secretary of state before it was permitted to sell or to contract to sell any stock, and the filing fee for this document was made \$20.²

The domestic charter fees received in the office of the secretary of state during the fiscal year ending August 31, 1915, amounted to \$96,778; the permit fees of foreign corporations were \$22,025, and the stock permits under the Blue Sky Law were \$520.³ In 1881 fees, exclusive of those of the office of secretary of state, amounted to \$105,572, and of this amount the fees of the general land office made up \$94,665. The fees of the secretary of state's office were not important at this time. In 1910 all fees, including those of the state department, amounted to \$430,155.⁴ Those of the state department furnished \$313,214 of this amount, and those of the general land office contributed \$32,377.

¹Rev. Civil Stats., 1911, art. 3837.

²Laws of 1913, First Called Sess., p. 66.

³MSS. Report in the office of the secretary of state. The total receipts of the office as given in the manuscript statement are subject to an addition of \$28 and to a deduction of \$1,217.24.

⁴Included in this amount are all of the receipts of the game, fish, and oyster commissioner, not all of whose receipts were fees.

CHAPTER 13.

THE PUBLIC LANDS.

The history of the public lands since 1880 is difficult to follow because of the frequent changes in the land legislation, the complexity of such legislation, and the numerous court decisions affecting it. For convenience of treatment the public lands are divided into: first, the unappropriated lands and those reserved for the payment of the public debt and for the building of a new state capitol, and, second, the lands belonging to the public free school, university, and asylum funds.

A. The Unappropriated Lands and the Debt and Capitol Reservations.

Under the policy of free grants to railroads, war veterans, homesteaders, and to the public free school fund, the unappropriated public domain was rapidly passing from state ownership. During the years 1879-1880 the general land office issued certificates for 21,287,408 acres of the public lands, and the estimated amount of free land remaining was, exclusive of Greer County, 17,391,810 acres.¹ In 1881 there were extensions of this policy. A grant of 1,280 acres was made to each disabled Texas Confederate veteran and to the unmarried widows of those killed in the Confederate service;² the grant of 640 acres which was provided in 1879 for each indigent veteran of the Texas Revolution was increased to 1,280 acres;³ and 300 leagues (1,328,400 acres) were reserved for the benefit of the free schools of unorganized counties, each county to receive upon organization four leagues.⁴ During the years 1881-1882 certificates were issued by the general land office to 25,206,505 acres. The total area for which certificates were issued during the four years 1879-1882 was 46,493,913 acres, or 48 per cent of the free public domain on September 1, 1861.

¹Land Office Report, 1879-1880.

²Laws of 1881, p. 122.

³Laws of 1881, p. 35.

⁴Laws of 1881, p. 65.

The first halt to the policy of abundant giving away of the lands was called in 1882, when all laws granting land for the construction of railroads, canals, and ditches were repealed.¹ It was believed that there was not enough unappropriated land to justify a continuance of such grants.² The last railroad grant made by the national government was in 1871. The reasons for the discontinuance of national aid were that the land was needed for future homesteaders and that the growth of population had made government aid less necessary. Such reasons doubtless influenced the action of Texas in 1882. The policy of donation of land in aid of internal improvements had been followed since 1854, except during the years 1869-1873. The important railway lines whose construction was aided by land grants are the Houston and Texas Central; the Southern Pacific; the Gulf, Colorado and Sante Fe; the Missouri, Kansas and Texas; the Texas and Pacific; the International and Great Northern; and the St. Louis Southwestern. The net grants to railroads approximated 32,400,000 acres; the grants to other internal improvements amounted to 4,088,000 acres, making a total of 36,488,000 acres.³ The laws required the railroads to alienate the lands granted, but this requirement was evaded in some instances under the guise of transfers or by the formation of land companies composed of the railway stockholders.⁴ The abuses, however, were minor, and the land grant policy by encouraging the construction of railroads indirectly but powerfully promoted the growth of population and industry in the state.⁵

The land reserved in 1879 for the purpose of securing a new state capitol was not sold piecemeal by the state, but a contract was made whereby a syndicate built the capitol in return for 3,000,000 acres.

The sale of the land of the public debt reservation at only fifty cents an acre turned out badly for the state. The bonds of the state could not be obtained except by purchase in the open

¹Laws of 1882, p. 3.

²The Report of the Land Office for 1881-2 gave 7,814,695 acres to be the amount by which the grants exceeded the available public domain.

³Report of the Land Office, 1910.

⁴Message of Governor Culberson, January 16, 1895.

⁵The Galveston News, April 14, 1882.

market, and there they commanded a high premium. The high premium was partly due to the demand of the school fund for the bonds. Half of the proceeds of the sale of the lands in the public debt reservation went to the school fund, and the fund was restricted to investment in United States and State of Texas bonds. As long as this restriction existed, there was competition between the state and the school fund in the purchase of the bonds, the state wishing to cancel them, the school fund to secure them as an investment. The urgent need of a change in the price of the lands and in the purpose to which the proceeds of sale were devoted were presented by the governor to the special session of the legislature in 1882, but the interest in congressional redistricting and the strength of the land lobby resulted in no change being then made by the legislature.¹

The recovery of industry from the panic of 1873 was observable in 1879, and the upward swing of enterprise in the years 1881, 1882 and 1883 was pronounced, showing itself in Texas among other ways in feverish land speculation. As a result of the "Fifty Cents Law" and the imperfect legislation respecting the lands of the school and other special funds, the public lands were the center of the land speculation. The inadequacy of the land laws to protect the interest of the state and of its trust funds was realized, and until the laws could be overhauled the legislature in 1883 withdrew all the public lands from sale.² The inroads which were being made upon the unappropriated public domain by the act granting 1,280 acres to disabled Confederate soldiers were checked by the repeal of the act.³ Under this land pension law 1,979,852 acres were granted.⁴ The mistakes of the "Fifty Cents Law" as to the price of the land and the disposal of the proceeds of sale were stopped by a regrant of the lands remaining in the public debt reservation. One million acres were given to the State University and one million to the public free school fund.⁵ The total number of acres sold for the payment of the public debt was 1,660,936.⁶

¹Galveston News, November 19, 1882.

²Laws of 1883, pp. 2 and 3.

³Laws of 1883, p. 13.

⁴Land Office Report, 1910, p. 30.

⁵Laws of 1883, p. 71.

⁶Land Office Report, 1910, p. 30. The proceeds of sale were \$884,786; Land Office Report, 1899, p. 30.

In 1887 the act of 1881 granting land to veterans of the Texas Revolution was repealed.¹ The veterans received under the law of 1881 1,169,382 acres.

In 1898 the state awoke to the fact that not only was the unappropriated land exhausted but that the school fund had not received by several million acres the half of the unappropriated domain existing in 1876 which the Constitution of 1876 had given to it.² This discovery led in 1899 to the abandonment of the homestead policy. Under this policy each head of a family without a homestead was entitled to receive free 160 acres and each single person 80 acres of the vacant and unappropriated public lands, provided they had lived on the land three years and had paid the surveying and land office fees which together amounted to between \$15 and \$20. Under this law 4,847,136 acres were granted as homesteads.³ An accounting between the state and the school fund was made in 1899 and it was found that the school fund was short its quota of land by 5,902,076 acres.⁴ In part settlement of this deficiency the school fund received all the unsurveyed and unappropriated public lands, except those included in lakes, bays, and islands.⁵ This appropriation to the school fund in 1899 brought to a close the experience of the state with its unappropriated public lands.⁶

¹Laws of 1887, p. 6.

²Land Office Report, 1898. *Hogue v. Baker*, 92 Tex., 58 (1898).

³Land Office Report, 1910.

⁴Report of the Commissioner of the General Land Office upon the Findings of the Special Commission Appointed under the Act of March 2, 1899. Laws of 1899, p. 14. Land Office Report, 1901-2.

⁵Laws of 1899, p. 123. Laws of 1900, p. 29. The special commission of 1899 reported the unappropriated domain to be 5,167,075 acres of which 1,722,880 acres were in lakes, bays, etc. The school fund received 4,444,195 acres.

⁶Since 1895 the state has charged a rental for the use of oyster beds planted or located within the public coast waters. Though called a tax in the statute, the charge was more properly a rental. In the law of 1895 it was ten cents an acre per year for the first five years and twenty-five cents for each year thereafter; Laws of 1895, Reg. Sess., p. 170. In 1899 the charge was made fifteen cents per acre per year for the first four years twenty-five cents during the next four years, and \$1 per acre thereafter. In 1907 the charge of \$1 was changed to seventy-five cents. The rents are payable to the game, fish, and oyster commissioner. The amount received cannot be ascertained from any official reports.

B. Lands of the Public Free School Fund.

The bulk of the landed domain of the state has gone to an endowment of education, and it has been in connection with the administration of this land endowment that the most serious problems of administering the public lands have arisen. In giving an account of the administration of the lands of the school and other special funds, it is most convenient to divide the lands into agricultural, including grazing, and timbered and mineral lands.

a. Agricultural Lands.

Until 1883 there were two sets of acts governing the sale of school lands; one act related to the alternate sections which had been surveyed by railroad companies and other agencies of internal improvement, while the other act referred to the remaining lands. The legislation of 1879 provided that the agricultural lands in the alternate sections belonging to the school fund should be sold at not less \$1.00 per acre; that not less than 160 acres and not more than one section of arable land or three sections of grazing land should be sold to any one person; and that one-tenth of the purchase money should be paid down, the balance to be paid in nine installments with interest at 10 per cent. Interest was payable on January 1 of each year, and if payment should not be made by March 1 the law stated that the land should be forfeited. The provisions in this law which related to forfeiture are illustrative of the lack of care which characterized the laws relating to the public lands. In the first place, the law of 1879, like that of 1874, made no provision for forfeiture on account of the non-payment of the principal at the time of final payment.¹ In the next place, forfeiture on account of non-payment of interest took place only after proceedings looking to forfeiture were instituted by the county or district attorney; but it was not made mandatory upon these officers to institute proceedings, nor was any compensation provided for them for instituting such proceedings. The result of these imperfections in the laws was that the officers, having no

¹Land Office Report, 1898.

pecuniary incentive to act, did nothing.¹ Another and principal defect of the law of 1879 was that the county surveyor was virtually the classifier, valuer, and seller of the public lands. He was free under the act not to inspect the land or even to know its locality. He had it in his power to favor whomsoever he might, and the only central control over his actions was the rather negative power of the commissioner of the general land office to withhold or withdraw the lands from the market.² These defects were not cured in 1881 when the law governing the sale of the school lands was amended. The changes made in 1881 were several.³ The district surveyor was made the appraiser of the value of the lands in unorganized counties, and the commissioner of the general land office was empowered to correct the valuations put upon lands by the district and county surveyors. The district surveyor was required to make an affidavit that he had personally inspected the land appraised by him. The maximum of grazing lands not within five miles of the geographical center of any county or upon any water front which could be purchased was raised from three sections to seven. The maximum amount of other land purchasable remained at 160 acres. The terms of credit also were liberalized by the provision that one-twentieth of the purchase money could be paid down and the balance in nineteen annual installments with interest at 8 per cent. Any payment of principal except the first could be deferred one or more years.

The provisions in the Revised Statutes of 1879 relating to the school land dealt with the lands other than the alternate sections which had been surveyed by railroads and other agencies of internal improvement. These provisions were that as soon as the lands were surveyed they should be sold, but at not less than \$1.50 per acre. Appraisal of the value should be made by three disinterested commissioners appointed in each county by the governor. After valuation the sale of the lands should take place

¹Message of Governor Ross, January 10, 1889. In 1882 the provisions for the enforcement of the contract through forfeiture were dropped; Laws of 1882, p. 36.

²Land Office Report, 1882, p. 6.

³Laws of 1881, p. 119.

under the supervision of the county surveyor. Preference in purchase was given to actual and prospective settlers. Prospective settlers were required to promise to settle upon and improve the land within twelve months from application for purchase. Land not purchased by an actual or prospective settler within two years from date of notice of sale could be purchased by any one. The maximum amount purchasable was 160 acres, the minimum 80 acres. One-tenth of the purchase price was payable down, the balance bore ten per cent interest, and the interest and one-tenth of the principal were payable March 1 each year. Failure to pay either interest or the installment of the principal worked forfeiture.¹

In 1882 there was feverish land speculation. The advent of the Gould and the Palmer-Sullivan systems of railroads was a fillip to enterprise and speculation, and contributory factors in the promotion of speculation were the "Fifty Cents Law" and the imperfect land laws. All the abuses possible under the land laws made their appearance. The only object of the "Fifty Cents Law" was revenue, but this was not the only purpose in the sale of school lands. The limitation in the laws of the amount of school land which any one person could purchase from the state was in the interest of the settler; but there was evasion of the provision through the use of borrowed names and the names of the wife and children of the applicant for land, and vast tracts of lands of from 100,000 to 1,000,000 acres were acquired. Wealthy individuals and corporations acquired these vast bodies for pasture purposes or for speculation.² The interests of the actual settler were in this way defeated, but the other purposes of the legislation, that is, to swell the school fund and increase the basis of taxation, were accomplished.³ Another abuse during the period was that practiced by the so-called "county seat rings." The persons composing the "rings" would by the use of borrowed or fictitious names file application for the valuable sections of land in the county. The land filed on would be withdrawn from the market for ninety days, but if at the expiration

¹Rev. Civil Stats., 1879, title 81, chap. 3.

²Land Office Report, 1911-12, p. 26.

³Land Office Report, 1882. The Galveston News, April 6 and 8, 1882.

of that time the "file" was not sold to a bona fide purchaser members of the ring would file anew. This practice was reprehensible chiefly because bona fide purchasers were forced to make terms with the ringsters.¹ The fact that the ringsters were able to extort a bonus from intending bona fide purchasers was proof of the undervaluation of the land and of a resulting financial loss to the school fund. The interests of the school fund suffered also from the undervaluation and improper classification of the lands.

Another abuse during the period was the free use of the school lands for pastures. This was the "free grass" policy which had always been followed in Texas. An unsuccessful attempt was made in 1881 to introduce the lease system.² The attempt was again made in 1882 to end the "free grass" policy, but it was bitterly opposed by the stockmen and defeated.³ The interests of the school fund, the stockmen, and the farmers were involved in the proposed change in policy. While there should have been no free grass, the cattle industry was too important to the state to be discouraged. The ranches represented great wealth to the state, and their owners had been the pioneers of law and order in their dealings with the Indians, marauding Mexicans and other thieves. The stockmen contended that if the lease policy should be adopted, it should be one of long leases, otherwise they would not be justified in digging wells on the unwatered lands or of building fences and in other ways making the land suitable for use. Long leases under this policy, however, would retard settlement and condemn the cattle country to a meager population and incomplete development.⁴ The school fund was interested in getting as much revenue as possible, and since sale to settlers would be slow the largest immediate revenue would be gained by leasing to stockmen or selling immense tracts to land corporations. There was general opposition, however, to the sale of lands to land corporations.

These defects in the land laws and policies confronted the legislature which met in 1883. The act of February 8, 1883, with-

¹The Galveston News, May 19, 1882. Land Office Report, 1882.

²The Galveston News, February 22, 1881.

³The Galveston News, March 22, 24, April 22, and May 19, 1882.

⁴The Galveston News, September 27, 1882.

drew from sale all the school lands, and the act of April 12, 1883, established a new system for the classification, sale and lease of the lands, and did away with the necessity of consulting two different acts as had been necessary during the preceding four years. The changes made affected principally the prices of land, the maximum amounts purchasable, and the lease of pasture lands.¹ The administration of the lands was given to a board called the State Land Board, which was made up of state officials acting in an ex-officio capacity.² Agricultural and pasture lands were to be classified into watered and unwatered, and the minimum price put on watered land was \$3 per acre, on unwatered land, \$2 per acre. The maximum of agricultural or watered land which could be purchased by one person was fixed at 640 acres, and the maximum of unwatered land at 4,480 acres. The minimum amount which could be purchased was 160 acres of agricultural land and 80 acres of timber land. A corporation was not permitted to acquire title to more than 640 acres of land in any one county. Agricultural land could be sold only to settlers, and purchasers of such land were required to swear that they would settle upon the land within six months. The actual occupancy, use, and improvement of the land for three consecutive years were required of a purchaser before a patent was issuable to him; though it was provided that the purchaser could sell after the payment of the first installment of the principal, and it was not specifically stated that the vendee should be an actual settler. The land board inserted as a part of the contract for purchase that the purchaser should occupy the land within ninety days after the award of the land to him, that occupation should continue for three consecutive years, and that abandonment of the land or sale to other than an actual settler during the three years of required occupancy should work a forfeiture of the land and payments.³ The land board appointed

¹Laws of 1883, p. 85.

²The constitutionality of the land board was upheld in *Arnold v. State*, 71 Tex., 239 (1888). For the resolutions passed by the land board see Sayles, *op. cit.*, pp. 363-390.

³Report of the State Land Board, 1885, p. 8. In 1889 the legislature validated the titles of venders and assignees in cases where the original purchaser failed to comply with the law and the requirements of the land board as to settlement; Laws of 1889, p. 107.

some one to represent the state in each county or land district. Bids for the purchase of land were made to this representative, and the land went to the highest bidder.¹ One-thirtieth of the purchase price was payable down, and the remainder was payable in twenty-nine installments with interest at 5 per cent. Failure to settle upon the land within the prescribed six months worked a forfeiture of the land and of the money paid on it. Forfeiture occurred also if the interest should not be paid by March 1, but there was nothing to prevent the postponement of the payment of the annual installments of the principal until the whole sum was due.

The legislation of 1883 provided also for the leasing of the public lands for pastures. The minimum rental was fixed by law at four cents an acre, and the maximum period of a lease at ten years; and the leased land was made subject at any time to purchase for settlement. These conditions for leasing fell short of what the stockmen wanted. They had asked for a maximum rental of two cents an acre and a minimum period of lease of twenty years.²

The legislation of 1883 was primarily for the benefit of the small settler and not for the large speculative buyer and the cattleman. This purpose was indicated by the limitations on the amount of land which could be purchased and by the provisions in the law in regard to leases. The provisions of the law were not proof, however, against large holdings, since these could be accumulated through purchase by friends, relatives and figureheads, and by transfers subsequent to the statutory three years.³ So insufficient was the legislation to ensure good faith on the part of purchasers for settlement that the land board in 1883 refused to put on the market the watered lands.⁴

¹The first method of bidding prescribed by the land board was one of written bids registered with the surveyor of the county and open to inspection; Resolution No. 1, October 23, 1883. This method was succeeded by one of competitive bidding at public outcry; Resolution No. 7, February 9, 1884. A sale under the first method was held to be void.

²Proceedings of the Stockmen's Convention, in the *Galveston News*, February 7 and 10, 1883.

³The *Galveston News*, April 25, 1883.

⁴Report of the State Land Board, 1885.

It limited to 1,280 acres the amount of pasture land which one person could purchase.

The first leasing of the public lands took place in January, 1884, and was at the minimum rental of four cents an acre. The land board decided that the competition under which the leasing took place was a farce, because the cattlemen, either by agreement or the force of custom, respected one another's "ranges." The land board, therefore, in February, 1884, advanced the minimum rental to eight cents an acre for unwatered lands and twenty cents an acre for watered lands.¹ The refusal to lease at less than eight cents an acre precipitated a struggle with the cattlemen which is notable in Texas history. The cattlemen—described popularly as free-grass barons—defied the land board and refused to pay anything, and on account of sympathetic juries escaped conviction for violation of the law.² Farmers and other freeholders in the stock country complained of being so enclosed by the barbed wire fences of the ranches that they had no entrance to or egress from their holdings, and there broke out in the latter part of 1883 an epidemic of wire cutting. The offenses committed by the cattlemen and the fence cutters made necessary a special session of the legislature, which met in January, 1884.³ Fence cutting was made an offense punishable by confinement in the penitentiary, the opening of roads through pastures was required, and the unlawful fencing of, or herding upon, the public lands was made a misdemeanor.⁴ Though the acute stage of the controversy passed and violence ceased, intimidation of those who would settle as farmers upon the ranges continued, as did also unlawful free use of the public grass.⁵ It was found in 1887 that

¹Report of the State Land Board, 1885. Land Office Report, 1886. Galveston News, July 5, 1888. This action of the land board in adopting a minimum higher or other than that laid down in the law was declared unconstitutional in *Smisson v. State*, 71 Tex., 222 (1888).

²Land Office Report, 1886.

³Proclamation of Governor Ireland, October 15, 1883. The Galveston News, June 17, 1883, and January 22, 23, 30, February 7, 12, April 10, and June 26, 1884.

⁴Laws of 1884, pp. 34 and 68.

⁵Laws of 1885, p. 83.

over three and a half million acres of the public lands were unlawfully fenced or used by the "free-grass barons," so an act was passed which defined more exactly the offence and increased the penalties for the unlawful use of the public lands.¹ As late as 1899 the unlawful free use continued, and two agents were appointed to investigate.² After this the unlawful practice disappeared. In 1887 the maximum term of a lease was made five years, the rental was fixed at four cents an acre, and it was provided that lands classified as grazing could not be sold during the period of lease. These conditions of leasing were more satisfactory to the cattlemen than the former ones.

These changes in the system of leasing were only a part of the changes made in 1887 in the land laws. The administration of the lands by the land board worked badly, confusion existed because of the many changes by the board in the methods of selling and leasing, and the provision for the classification of the lands was very imperfect.³ So in 1887 a complete revision of the land laws was made.⁴ The land board was abolished and control was concentrated in the hands of the commissioner of the general land office, subject to approval by the governor. It was provided that a more careful classification of the lands should be made by state agents. Under former laws the county surveyor was entrusted with the responsibility of classification. The maximum of unwatered pasture land purchasable by one person was reduced from 4,480 acres to 2,560 acres. The maximum of agricultural land purchasable by one person was fixed at 640 acres, the minimum at 160 acres, except in the case of scrap lands. It was required of a purchaser of agricultural land to swear that he "desired to purchase the land for a home," that he was buying for himself and was not acting in collusion with any other person. The purchaser was required to reside upon the land three years before the state would pass

¹The Galveston News, July 5, 1888. Laws of 1887, p. 83. This unlawful free use resulted in an estimated loss of over \$567,000 to the school and other special funds.

²Laws of 1899, p. 176. Land Office Report, 1900-2.

³Message of Governor Ireland, January 11, 1887. Message of Governor Ross, January 20, 1887.

⁴Laws of 1887, p. 83.

title to him, but he could be absent from the land as much as six months a year. The act of 1887 was more specific in these respects than was the act of 1883. This residence provision of the law has been a part of all subsequent legislation and has been the occasion of "untold perjury."¹ Sale to a corporation was strictly prohibited. The period allowed for the payment of the principal of the purchase money for agricultural land was extended to forty years, but the rate of interest on the unpaid installments was left at 5%. It was provided also that forfeiture should occur only upon failure to pay the interest by August the first each year. This restored the provision for forfeiture which had been repealed in 1885.

Under the provisions and amendments of the acts of 1883 and 1887, 11,837,389 acres of school lands were sold, but 7,684,503 acres were forfeited, leaving 4,152,886 as the net amount sold. The number of acres leased was 6,505,403, but of this amount only 77,437 acres were university lands. There had been surveyed for the University under the act of 1879, 984,960 acres, and under the act of 1883, 1,087,917 acres.² The university lands surveyed under these acts were located in Tom Green, Pecos, Crockett, Upton, Irion, Andrews, Ward, Martin, Loving, Winkler, Crane, Ector, Schleicher, Presidio, and El Paso counties.³ The new university lands and the poorer school lands were not well situated with respect to population and were not supplied with water, and these unfavorable conditions called for leasing terms which were different from those which applied to the better school lands. Accordingly in 1889 it was provided that university lands could be leased at three cents an acre and for as long a period as ten years, and that school and asylum lands lying north of the Texas and Pacific Railroad and east of the Pecos could be leased for a period of six years, and those south of the railroad and west of the river for ten years. This was the beginning of the "lease line." The rental of the school and asylum lands was fixed at four cents an acre,

¹Land Office Report, 1907-8.

²Land Office Report, 1901-2. The surveys under the acts of 1839 and 1856 amounted to 216,805 acres.

³Land Office Report, 1901-2, pp. 34-7.

and no grazing land under lease was subject to purchase. Purchasers of lands were allowed until the January first following the preceding August first to pay interest past due, but a penalty of 50% on the past due amounts was fixed. This was a method of relief from the forfeiture provisions of the law, and the extension of such relief has been rendered necessary more than once by the protracted drouths from which the western parts of the state have suffered.

Other features of the land legislation of 1889 were the lowering of the minimum of agricultural land purchasable from 160 acres to 80 acres and the repeal of the pre-emption law.¹ As the privilege of pre-emption was being abused by men who were interested in speculating in land and in forming large holdings instead of in settling upon the land, the repeal of the privilege became necessary.²

The years 1889 and 1890 were years of active settlement and material development of the state, and these conditions were favorable to an increase in land sales and leases under the new legislation. At the end of 1888 only 77,437 acres of university lands were under lease, but at the end of 1890 there were 247,997 acres. School lands leased increased from 6,327,966 acres in 1888 to 7,130,434 in 1890. Receipts from land sales by the various funds increased from \$187,235 in 1888 to \$540,735 in 1890.

In 1891 the time allowed for the payment of interest on land purchases was extended from November 1 to April 1, and the lease line was slightly changed.³ The drouth in 1892 resulted in the date for the payment of interest being extended from April 1 to November 1.⁴

In 1895, in response to a demand from the West, a general revision of the land laws occurred.⁵ This was the first general revision after 1889. The minimum amount of agricultural land which could be purchased was reduced from 80 acres to 40 acres and the maximum amounts were one section of agri-

¹Laws of 1889, p. 16.

²Land Office Report, 1888.

³Laws of 1891, p. 180.

⁴Laws of 1893, p. 30.

⁵Laws of 1895, pp. 63 and 75.

cultural and three sections of grazing lands. The minimum prices fixed were \$2.00 per acre for agricultural land and \$1.00 per acre for grazing lands. Though the period of credit remained forty years, the interest rate was reduced to three per cent. Watered agricultural lands could be leased for five years and unwatered lands and grazing lands for ten years. Unlike the acts of 1887 and 1889, the law of 1895 did not stipulate the absolute lease prices, but prescribed a minimum rental of three cents an acre for agricultural and watered lands and two cents an acre for grazing lands, and provided that the lands should be leased to the highest bidder.¹ The control of the university lands was vested in the board of regents of the University, with the condition that these lands should not be sold for less than the same class of lands belonging to the other funds.²

The changes in the land laws in 1897 are historical because of the loss which the school fund suffered.³ The minimum amount of agricultural land which could be purchased was increased from forty acres to eighty acres; and though the maximum amount of agricultural and grazing land which could be purchased together remained at four sections, two of these sections could be of agricultural land. The price of agricultural land was reduced from \$2 per acre to \$1.50 per acre. Land which had been erroneously classified could be reclassified upon the certificate of the commissioners' courts. Leased lands were subject to sale at any time, except where the lessee had made substantial improvements, and except within certain territory described in the statute. The operation of the legislation of 1895 and 1897 was injurious to the interest of the school fund in the following way: As a forfeiting purchaser had a preference right for ninety days to repurchase his land after it had been forfeited for non-payment of interest, the reduction in price and the reclassification provided for in the acts of 1895 and 1897 encouraged forfeiture and crooked reclassification. Land which had been classified as agricultural and sold

¹The Houston Post, March 12 and 14, 1895.

²Laws of 1895, p. 19. The control of the university mineral lands was not given to the board of regents until 1901; Laws of 1901, Reg. Sess., p. 266.

³Laws of 1897, p. 184.

at \$2 and \$3 per acre was forfeited, its reclassification as grazing land was effected, and it was repurchased by the forfeiting purchaser at \$1 an acre. The loss to the school fund caused by this fraudulent reclassification was estimated to be between eight and twelve million dollars.¹

In 1898 it was found that the school fund had not received 5,902,076 acres to which it was entitled by the provision of the Constitution of 1876. This shortage was due to the fact that except in the case of railroads surveys for such purposes as homestead, military, and other grants had not been accompanied by surveys of equal amounts for the school fund.² In settlement of the deficiency there was appropriated to the school fund all of the lands which had been or which might be recovered from railway companies and other sources, amounting to 1,440,701 acres; all of the unsurveyed and unappropriated public lands, except those included in lakes, bays, and islands, amounting, as then estimated, to 4,444,195 acres, and \$17,180, this being the value at \$1 per acre of the number of acres necessary to complete the amount due.³ The land included in this appropriation was in general the poorest of the western lands, and the conditions under which it could be sold were different from those which attached to other school lands. A minimum price of \$1.00 per acre was stipulated, amounts of 640 acres or less could be purchased for cash only and without the condition of settlement, and preference rights of purchase were accorded first to settlers and second to leaseholders.⁴

In 1901 a general revision of the law governing the sale of school and asylum lands was made.⁵ The principal changes were that applications for purchase or lease should be filed with the county clerk, instead of with the commissioner of the general land

¹Land Office Report, 1899-1900, 1901-2. Message of Governor Sayers, January 10, 1901.

²Land Office Report, 1901-2.

³Laws of 1899, p. 123. Laws of 1900, p. 29. Since 1900 small tracts of unappropriated land have been discovered which have resulted in the school fund receiving 555,283 acres more than the 4,444,195 acres; Land Office Report, 1901-2, p. 8.

⁴Laws of 1900, p. 29.

⁵Laws of 1901, p. 292.

office, as was formerly the requirement; and that four sections of land could be purchased by one person regardless of whether the land was agricultural or grazing land.

Under the laws of 1895, 1897, and 1901 the lessee had at the expiration of his lease a prior right to purchase as a settler the land which he had leased. This gave lessees an advantage over others, and it was often abused so as to force homeseekers to pay a bonus to speculating lessees or to other speculators who had inside information as to the time leases expired. Even some lessees who were ignorant of the time their leases expired were compelled to pay large bonuses to the members of the courthouse rings, or to the lawyers and land agents who infested the Panhandle and West Texas and who were ever on the alert to file on land which was coming on the market. The competition to file on land which was coming on the market was so keen that violence and bloodshed resulted in some cases. So acute for a time was the danger of trouble and so farcical was the opportunity for the peaceful homeseeker to secure land that the legislature in 1903 suspended for ninety days the privilege of filing on lands which were coming on the market through the expiration of leases.¹ There was no revision of the law, however, until 1905.

In the revision of 1905 the very important innovation was made of requiring that school and asylum lands under lease should be widely advertised before they became subject to sale, that written bids for the purchase of the land should be submitted to the commissioner of the general land office, and that the land should be sold to the highest competitive bidder, provided that the price bid should not be less than the appraised value fixed by the commissioner.² Unsurveyed vacant school lands of which there was no record on the official maps of the land office, unsurveyed swamp lands, and unsurveyed vacant tracts of between 80 and 640 acres of which there was a record on the official maps but which were entirely surrounded by valid surveys, could be purchased for cash or on forty years time and five per cent interest, and without the conditions of residence and improvements upon the land which were imposed upon purchasers

¹Laws of 1903, p. 242.

²Laws of 1905, p. 159.

of other lands. Unsurveyed tracts of 80 acres or less could be purchased only for cash. The maximum amount of land which could be purchased by a person remained four sections, including former purchases, except that eight sections in the extreme western counties could be purchased.

Land which was not in demand for settlement could be leased, and the original lessee or assignee was given the preference in securing another lease, provided he paid the highest bid which could not be less than three cents an acre. Original lessees or the assignees of leases were given the preference in buying land out of their leased land, though this privilege was limited to the existing leaseholders or their assignees. This preference privilege was abused by cattlemen who because they were not permitted by law to purchase for themselves as much land as they wanted first assigned their leases to their sons and daughters and employees who fulfilled the conditions of purchase and then sold to the former lessees—the cattlemen. This practice tended to defeat the settlement purpose of the law.¹ Amendments to the law which were made in 1907 were intended to minimize the possibility of abuses arising under the law. The amendments of 1907, 1913, and 1915 modified a lessee's privilege to purchase out of his lease, defined anew the conditions as to settlement, provided in the case of some lands for purchase without settlement, and limited the privilege of transferring land which had been bought on condition of settlement.²

b. Timber Lands and Timber.

Texas is one of the principal yellow pine lumber states, and the timber lands which are the source of supply of this valuable product were not so very long ago a part of the public domain. The history of the timber lands up to 1880 shows that a very loose policy was pursued by the state. Through fraudulent classification or through careless valuation the lands were sold for less

¹Land Office Report, 1907-8.

²Laws of 1907, Called Sess., p. 490. Laws of 1909, Second Called Sess., p. 429. Rev. Civil Stats., 1911, arts. 5405-5459. Laws of 1911, Reg. Sess., p. 154. Laws of 1913, Reg. Sess., p. 336. Laws of 1915, Reg. Sess., p. 256.

than their value, and wholesale theft of timber went on unchecked.¹

The legislation of 1879 with respect to timber lands was very loose. The only reference to them in the act of 1879 providing for the sale of the school lands was to prohibit the cutting of the timber until the purchase price of the land had been paid in full. The law stated no limit to the amount of timbered land which one person could purchase, and prescribed no other minimum value than the one dollar an acre for school land in general.² The glaring defects of this legislation were that valuation was left to the county officials, that there was no adequate minimum value fixed, and that it was permitted to purchase timbered lands on credit. The legislation of 1881 did nothing towards correcting these defects, except that it authorized the commissioner of the general land office to approve or disapprove the values put upon land by the surveyor and county commissioners.³ The commissioner of the general land office said in his report of 1882 that "in most of the counties the surveyor and county commissioners have declined to increase the valuations, and in others the increase did not meet my expectations, and the result is that this wealth of pine remains the property of the common schools, and awaits the further action of the legislature."

In 1882 it was enacted that no pine timbered land should be sold for less than \$5.00 an acre.⁴ This land had been selling at \$1.00, \$1.50, and \$2.00 an acre, and the school fund had been the sufferer and individuals and lumber corporations had been the chief beneficiaries.⁵ The law was still defective, however, in that it failed to recognize the different classes of timber land and permitted the purchase of such land on time. In 1883 it was provided that one who was a settler on timbered land on January 1, 1883, could purchase the same for cash in quantities of not less than 80 acres and of not more than 320 acres at the minimum price (\$5 per acre for good timbered land and \$2 per acre for

¹Land Office Report, 1878.

²Laws of 1879, Called Sess., p. 23.

³Laws of 1881, p. 119. Special Report of the Commissioner of the General Land Office, 1882, p. 7.

⁴Laws of 1882, p. 36.

⁵Letter of Commissioner Walsh, in the Galveston News, March 1, 1882.

other timbered land).¹ Other purchasers of timber land were required to be settlers, and they were permitted to buy not less than 160 acres nor more than 640 acres, at a price of not less than \$5 an acre. But cash payment was not required of these purchasers. It was also provided in 1883 that the timber could be sold for cash at \$5 an acre. Regarding the operation of the legislation of 1883, the commissioner of the general land office wrote in his report of 1886 that the "pine lands remain practically tied up under the acts of 1882-3, which place all timber land at a minimum of \$5 per acre, without regard to the quantity or quality of timber. As a result depredators are at work, and legitimate timber cutting proportionately checked."

In the reorganization of the administration and the new land legislation which occurred in 1887, a classification of the timber land was authorized, the minimum price established for the better land was \$5 an acre and that for the poorer \$2 an acre.² After 1887 nothing of importance was done affecting timber lands until 1899, when agents were authorized to investigate the theft of timber on the school lands. These agents and the prosecuting officials of the state put a stop to the depredations which had theretofore gone on practically unchecked.³

In 1905 the present system of selling the land or the timber to the highest of competitive bidders was introduced.⁴ This competitive bidding system differed from former ones in that its administration, including the fixing of minimum valuations, was left with the commissioner of the general land office. By 1905, however, the state had very little timber land left. At the close of the year 1902 there were only 31,978 acres of timber lands which were unsold and on the market, and it was doubtful if as much as half of this acreage had on it timber of marketable value.⁵ The state's officers at that time did not know how much of it was marketable, and their predecessors also had lacked sufficient knowledge of the extent and value of the timber resources to

¹Laws of 1883, p. 85.

²Laws of 1887, p. 83. Laws of 1889, p. 50.

³Land Office Report, 1901-2, p. 24.

⁴Laws of 1905, p. 159. Laws of 1907, Called Session, p. 490. Rev. Civil Stats., 1911, arts. 5429-5431.

⁵Land Office Report, 1903-4, p. 8.

administer them efficiently. It was not the fault of the commissioners of the land office, but it was due to the niggardly policy of the legislatures and governors that the timber resources were parted with under conditions of erroneous or false classification or undervaluation of the lands and timber.¹ The classification and valuation of the lands were entrusted either to county officers or to equally inexpert outsiders. The valuation of timber lands or of the timber thereon called for expert knowledge, but not only was no provision made for securing the services of experts, but there was no appropriation during the greater part of the period that would permit the commissioner of the general land office to inspect the forests or lands whose valuation he was required by law to approve or disapprove.

c. Mineral Lands and Minerals.

The mineral resources of Texas are varied and rich and since so much of the land in which minerals have been found belonged at one time to the school fund, and since there is left so much unsold mineral land whose mineral rights have been reserved by the state, the history of the disposition of these lands is one of interest and importance.

Under the laws of Spain and Mexico all mines belonged to the sovereign. The Republic of Texas by the act of June 3, 1837, provided against the location of any land grants on mineral land, and in the act of January 20, 1840, adopting the Common Law and repealing certain Mexican laws, the laws relating to the retention by the state of mines and minerals were excepted from repeal. In the case of *Cowan v. Hardeman*, decided in 1862, the supreme court upheld the right of the state to minerals in the soil.²

In 1866 a change of policy was adopted when by an ordinance of the constitutional convention the state released to the owner of the soil any minerals in the soil. This was readopted in the constitutions of 1869 and 1876. This provision in the Constitution of 1876 reads: "The State of Texas hereby releases to the owner or owners of the soil all mines and minerals that may be

¹Land Office Report, 1901-2, p. 21.

²26 Tex., 217.

on the same, subject to taxation as other property.''¹ This clause was construed in 1912 to effect a release of minerals in only the land with which the state had parted ownership prior to the adoption of the Constitution of 1876.²

Until 1883 nothing was done by the state in the way of conserving the mineral resources of the state or of promoting their development; the mineral lands were classified and valued only as agricultural or grazing lands, and were disposed of under such false classification.³ But in 1883 there appeared for the first time in the land sale acts a clause which reserved to the fund to which the land belonged the minerals which were found in such lands.⁴ The act of 1883 did not provide for the sale of mineral lands as such but provided only for the sale of the minerals.⁵ It was enacted that the fund to which the land belonged should receive a royalty of five per cent of the gross receipts from the operation of the mine. Only \$12.25 was received from this royalty up to the year 1887.⁶

The law of 1883 was thus practically inoperative, and the whole situation with respect to the mineral lands was badly in need of change. Prospectors felt insecure as against the owners of the land so long as the release clause of the constitution was unconstrued; there was need of a mineral survey of the public lands in order that the mineral lands might be known and classified as such, and need of a provision either for their sale or for their withdrawal from the market.⁷

The administration of the mineral lands during the years 1883-1895 was especially full of blunders. In 1887 a new land sale act was passed and the Land Board which had been established in 1883 was abolished, but the omission in the act of any reference to mineral lands had the effect of repealing the mineral land legislation of 1883.⁸ The state was left thereby with-

¹Art. 14, sec. 7.

²Cox v. Robinson, 105 Tex., 438 (1912).

³Land Office Report, 1881-2, p. 6.

⁴Laws of 1883, p. 85.

⁵Laws of 1883, p. 100.

⁶Report of the State Land Board, 1886, p. 6.

⁷Land Office Report, 1888, p. 9.

⁸Hell v. Martin, 70 S. W. Rep., 430 (1902).

out any express provision for the reservation or protection of the mineral lands or of the minerals in them.¹

Under the law of 1883 the classification and sale of mineral lands were not provided for, but the retention of these lands by the state and their operation by private persons upon the payment of a royalty to the state was the policy adopted. The policy which had been followed up to 1883 had been to withhold known mineral lands from sale and to make no provision for the sale of the minerals. In 1889 provision was made for the sale of mineral lands as such.² Mining claims on lands containing gold, silver, cinnabar, lead, tin, copper or other valuable minerals were limited to twenty-one acres, and the purchase price of the land was fixed at \$25 an acre. Mining claims on lands containing coal, iron ore, oil, natural gas, fine clay, marble, or other deposits were limited to one hundred and sixty acres for individuals and to six hundred and forty acres for associations which had expended as much as \$5,000 in developing the claim, and the purchase price of the land was fixed at \$10 and \$20 an acre according as it was or was not situated within ten miles of a railroad. Purchasers of mineral lands were given five years within which to pay for them. In 1888 a geological and mineralogical survey of the state was authorized, and it was expected that this survey would enable the state to classify the mineral lands; but the work of the survey was incomplete and lands which were really mineral lands continued to be classified as grazing land and sold at \$1.00 and \$1.50 an acre.³

In 1895 a new mining law was passed.⁴ Some of the changes made by it were that the prices of the land containing the less valuable metals were fixed at \$10 and \$15 instead of \$10 and \$20, and that ten years credit with interest at 4 per cent was allowed to purchasers of such lands.

Under the credit provisions of the laws of 1889 and 1895 there were easy opportunities for the exploitation of a claim without adequate payment, and valuable deposits were worked

¹Mining Co. v. Rogan, 68 S. W. Rep., 155 (1902).

²Laws of 1889, p. 116.

³Laws of 1888, p. 10. Land Office Report, 1899-1900, p. 28.

⁴Laws of 1895, p. 197.

in El Paso, Presidio and Brewster counties without any payment to the school fund.¹ With a view to correcting the deficiencies due to imperfect classification of the public lands, mineral surveys were authorized in 1901 and 1903, but like the survey of 1888, their work was stopped before it was completed, and the school fund has apparently never been the beneficiary of any of the work of the several surveys. The loose and careless policy respecting classification and sale explains why the receipts to the school fund from the sale of mineral lands between 1883 and 1905 were only \$17,972.²

Amendments were made to land laws in 1905, the most important one being that the commissioner of the general land office should set the price upon the land, subject to a minimum of \$25 per acre.³ Other important changes made were on account of defects in the act of 1895 and were that one-fifth of the purchase price of the lands containing valuable minerals together with interest on the unpaid installments should be paid annually, and that one interested in a forfeited claim should not be eligible to relocate or have any interest in a relocation.

In 1907 a very important change in the law was made when it was provided that land classed as mineral could be sold for agricultural or grazing purposes, but upon the express condition that the minerals were reserved to the fund to which the land belonged.⁴ The significance of this provision for blanket classification can be best understood in the light of the history of certain portions of the different acts from 1883 to 1907. All of the acts reserved to the fund to which the land belonged the minerals in the land, and the acts from 1889 on reserved from sale or other disposition except as mineral lands all lands containing minerals, and a person in applying to purchase any land was required to certify that to the best of his belief there were no minerals in the land.

The reservation clause in the act of 1889, as well as that in the act of 1883, was nullified by the Revised Statutes of 1895

¹Land Office Report, 1901-2, p. 42; 1903-4, p. 10.

²Land Office Report, 1903-4.

³Laws of 1905, p. 148.

⁴Laws of 1907, First Called Sess., p. 495.

which in article 4041 released to the owner or owners of the land the minerals in the land.¹ Though by this article the state released its mineral rights in land parted with prior to the adoption of the Revised Statutes of 1895, by article 3495 of the same statutes there were reserved the minerals in lands disposed of after the adoption of the Revised Statutes.

The state contended in the case of *Schendell v. Rogan* that the reservation clause reserved the minerals not only in lands classified as mineral lands, but also in lands classified and sold as agricultural, grazing, or timbered. The decision of the court, however, was that when land had been classified and sold by the commissioner of the general land office as agricultural or grazing land, even though it contained minerals, the action of the commissioner was conclusive upon the state.² Since, therefore, in order for the reservation clause to be effective the land must be classified as mineral, the provisions in the law of 1907 for a double classification and for a reservation of the minerals make it possible to dispose of the land without impairing the right of the state to the minerals in it.

Despite more than seventy-five years of ownership and management of the public lands, the state in 1912 had a most unsatisfactory mineral land law on the statute books. The commissioner of the general land office wrote regarding the situation that valuation of mineral lands was "simply guess work, and purely arbitrary. A precious mineral location might be rich in ore and the owner extract large quantities in a short while, exhaust the deposit and abandon it in a year or so without liability in excess of the nominally appraised value. As yet few have found mining on school land profitable. In the case of the baser minerals, such as oil, coal, etc., the average prospector does not prospect, but waits for his neighbor to develop. He is likewise slow to do much real prospecting before buying (the land), lest something should be found, and the price fixed proportionately."³

The imperfections of the law of 1907 for promoting mining development and the need of some provision for the sale of

¹*Hell v. Martin*, 70 S. W. Rep., 430 (1902).

²94 Tex., 585 (1901).

³Land Office Report, 1911-12, p. 13.

minerals found on land which had been sold but the mineral rights to which had been reserved to the state led to the legislation of 1913.¹ The law of 1913 provides that the prospector for oil or gas shall take out a permit, the possession of which gives him the exclusive right for a certain period of prospecting on the land. In the event of the discovery of oil or gas in commercial quantities, the owner of the permit has the right to lease the land and operate the well or wells upon payment of \$2 per acre per annum in advance and of a royalty annually of one-eighth of the value of the gross production of the oil or of 10 per cent of the meter output of the gas sold. In the case of land which has been sold by the state with a reservation of the minerals, the annual charge to the prospector for the permit to prospect for oil or gas, amounting to twenty-cents an acre, accrues to the owner of the land. There are no similar permit fees for prospecting for other minerals and no absolute lease charge per acre in addition to the royalty. The royalty payable in the case of coal is six cents a ton; for lignite, four cents a ton; and for other minerals, stones, etc., five per cent of the value of the gross output.

d. Summary.

The advertising and bidding methods introduced in 1905 resulted in an estimated gain of \$20,783,882 to the school fund during the seven years 1906-1912 over the old methods of sale.² Some land which would have sold at from \$1 to \$2 per acre under the old system sold under the new at from \$12 to \$22 per acre. However, the average sale price of the western lands per acre was low—between \$1.50 and \$3.00—because these lands were suitable only for dry farming or for grazing.

The first school land sales were under the act of 1858, as amended in 1860, and amounted to 10,506 acres. The next land sale act was in 1874, and under it sales totaling 317,107 acres were made. Under the acts of 1879 and 1881 6,596,069 acres were sold. Up to 1883, therefore, the number of acres sold

¹Rev. Civil Stats., 1911, arts. 5433, 5904-5922. Laws of 1913, Reg. Sess., p. 409. Laws of 1913, Called Sess., p. 26.

²Land Office reports, 1906-1912.

amounted to only 6,923,682. Under the acts of 1883, 1887, 1895 and 1910 and their amendments there were sold up to September 1, 1900, 21,778,395 acres. On account, however, of forfeitures and cancelations amounting to 10,256,714 acres, the total acreage either patented or whose sales were in good standing at the land office in 1900 under all the acts was 18,444,975.¹ As the amount of the land unsold in 1900 was 20,613,527 acres, this added to the 18,444,975 acres gives 39,058,502 as the land endowment of the school fund up to 1900. More than five million acres were added as a result of the settlement between the state and the school fund under the terms of the act of 1900, so that the school fund received in land approximately 45,000,000 acres. There remained in 1912 only 1,636,176 acres. The purchase movement after 1900 was very heavy, the amount sold being nearly as much as that for the entire period 1858-1900.² The unsold land lies between the Pecos and Rio Grande rivers; it is classified mainly as mineral-grazing land, and because of its extreme aridity some of it is not suitable even for grazing. Only 377,018 acres were under lease in 1912. A small revenue is derived from the sale of guayule and candallilla growing on these western lands, these shrubs having a commercial value in the manufacture of products possessing the qualities of rubber and wax.

An idea of the financial significance of the lands to the school fund may be derived from an examination of some of the items of the permanent school fund. On August 31, 1914, this fund owned \$18,204,363 of state, county, and other bonds of value, and \$35,028 in cash, and approximately all of this amount was derived from land sales. The fund held also the notes of purchasers of land for \$47,067,427, and the interest on these notes during 1914 amounted to \$1,409,491. The receipts from leases in 1914 were only \$1,388.³

¹Land Office Report, 1899-1900.

²There were put on the market in 1914, 3,769,281 acres of school lands. This is the sum of the amount unsold in 1912 plus the forfeitures since 1912.

³Report of the State Treasurer, 1914, pp. 35-36.

C. University Lands.

Until 1895 the university lands were administered by the general land office, and their administration was characterized by the merits and shortcomings of the public land legislation and administration up to that time. The regents of the University recommended as early as 1886 that they should be given the control and management of the lands belonging to the University, but this was not done until 1895.¹

The fifty leagues of land granted to the University in 1839 were surveyed to the amount of 226,122 acres in Callahan, Collins, Cooke, Fannin, Grayson, Hunt, Lamar, McLennan and Shackelford counties. There were conflicts of surveys in the case of 21,762 acres of these lands, and the University lost thereby over 7,022 acres in McLennan County and 8,022 acres in Grayson County, and the loss in the latter case has not been made good by the state.² Sales of the land received from this grant began before the Civil War, and by 1888 there were only 14,148 acres unsold.³ By 1899 only 5,095 acres were unsold, and it was believed that the title had been lost to most of these.⁴

The western lands, or those surveyed for the University under the acts of 1879 and 1883, are situated in the western and southwestern parts of the state. On account of their quality and the deficiency in rainfall, they are fit only for grazing. Of the more than two million acres of the western lands of the University only one sale of 640 acres has ever been perfected. It has been the policy of the board of regents not to sell the western lands but to lease them for grazing purposes until they are more valuable. The greatest number of acres under lease before 1895 was 685,280 in 1892. By 1898, as a result mainly of the efforts of the land agent of the University, the number of acres under lease rose to 1,384,632, and the annual rental amounted to \$40,408, as compared with \$17,186 in 1892-3. On August 31, 1915, there were 2,067,105 acres under lease at from two and a half to fifteen

¹Report of the Board of Regents, 1886, p. 22. *Laws of 1895*, p. 19. *Rev. Civil Stats.*, 1911, arts. 2633-2634.

²Report of the Board of Regents, 1888, p. 6; 1892, p. 7. *Lane, History of Education in Texas*, p. 138. *Laws of 1897*, p. 265.

³Report of the Board of Regents, 1888, p. 6.

⁴Report of the Board of Regents, 1899, p. 42.

cents an acre, and the amount received from leases during 1915 was \$169,057. Also on August 31, 1915, the permanent university fund held land notes to the amount of \$26,572.77, and the annual interest on the notes amounted to \$1,135.16.¹

It can never cease to be a source of regret to the friends of higher education in Texas that the framers of the Constitution of 1876 took away from the University the land appropriation made in 1858 and substituted therefor one million acres of western lands. The grant made in 1858 of one section for every ten granted to railroads would have been a princely endowment, and would have amounted, it has been estimated, to not less than 1,600,000 acres in 1886, worth at least \$8,000,000.² The present western land endowment of over 2,000,000 acres is worth as grazing land not more than \$3,000,000.³

D. Asylum Lands.

The asylum lands, granted by the act of 1856, were surveyed in Callahan, Comanche, Eastland, Jones, Shackelford, Stephens, Taylor, and Tom Green counties.⁴ Instead of there being 100,000 acres surveyed for each of the asylums, there appears to have been surveyed for the Blind Asylum, 104,457 acres; for the Deaf and Dumb Asylum, 102,259 acres; for the Orphan Asylum, 102,359 acres; for the Lunatic Asylum, 101,618 acres.⁵ The asylum lands are under the administration of the general land office and the history of their disposition is similar to that of the school lands. On August 31, 1902, only 4,846 acres of the asylum lands were unsold, and on August 31, 1912, all appear to have been sold, though the several asylum funds held notes for \$172,199 for 122,578 acres sold and not paid out.⁶

¹MSS. Report of the auditor of the University.

²Report of the Board of Regents, 1886, p. 7. J. J. Lane, *History of Education in Texas*, p. 143.

³The value of these lands is placed at \$1,346,971 in the balance sheet of the University in 1912; Report of the Board of Regents, 1910-1912, p. 107.

⁴Land Office Report, 1878, p. 19.

⁵Land Office Report, 1901-2, p. 38.

⁶The amount of land notes held by the several asylum funds on August 31, 1914, was \$158,661; Report of the State Treasurer, 1914, pp. 36-37.

E. Conclusion.

Since 1880 there has taken place not only the complete appropriation of the free public domain but also the disposal by sale of the easily cultivable school, university, and asylum lands. On August 31, 1880, the unsold land belonging to the special funds, including the capitol lands, amounted to 29,528,150 acres, and the amount of free land belonging to the state was estimated at 19,069,890, making a total of 48,598,040 acres to be disposed of. As there were no free public lands in 1912 and as the amount unsold belonging to the special funds was about four million acres, nearly forty-five million acres had been parted with by the state and the special funds since 1880. Not all of New England and Delaware together equal in land area the amount of land parted with. Though the best lands for cultivation are gone, Texas has a coast line of some four hundred miles, and lying along it are many acres of unsurveyed and undrained land which belong to the state. Drainage of these lands and the reclamation and mining of the western lands may make the remaining public lands valuable and useful.

CHAPTER 14.

THE PUBLIC DEBT.

The four things which stand out prominently in the history of the public debt since 1880 are the reduction in the amount of the debt, the refunding operations, the acquirement of the bonded debt by the school and other special funds, and frequent deficiencies in the general revenue resulting in harassing floating debts.

The bonded debt, exclusive of "the debt of doubtful validity" held by the school and university funds, was reduced from \$5,029,920 in 1880 to \$3,976,200 in 1915, making a reduction of \$1,053,720. If "the debt of doubtful validity" be included, the reduction for the period amounted to \$1,892,066. The payments made in 1881, 1882 and 1883 amounted to \$1,680,244. The so-called debt of doubtful validity consisted of the five per cent bonds issued to the school and university funds under authority of the act of November 12, 1866, the six per cent bonds issued to the school fund in 1865, and a comptroller's certificate of indebtedness issued to the university fund in 1865. All of these obligations were validated in respect to both principal and accrued interest and were ordered paid by the act of February 23, 1883.¹ The principal and accrued interest of these old debts amounted to \$738,346. \$688.054 of the amount was paid in 1883, but on account of insufficient means the remainder was not paid until 1885. Payments of the public debt which have been made since 1885 were \$243,000 in 1892, \$2,700 in 1893, \$2,585 in 1899, \$45 in 1900, \$11,900 in 1910, and \$1,300 in 1911—a total since 1885 of \$261,530. The debt paid during these years was that held mainly by individuals and not that held by the trust funds of the treasury.

In 1909, as a result of the penalty of \$1,718,009 paid to the state by the Waters-Pierce Oil Company, the legislature appropriated \$1,068,900 to pay the state debt maturing in 1909. This debt consisted of the 5% thirty year bonds issued in 1879,

¹Laws of 1883, p. 15.

and the trust funds held \$933,500 of the amount. The appropriation was vetoed, however. The reasons for the veto given by the governor were, first, that the method of debt payment required by the constitution (art. 3, sec. 48) was through the accumulation of a two per cent sinking fund; and, second, that granting constitutionality, payment as contemplated would lay in one year a too heavy burden of taxation upon the people.¹ The constitution not only does not enjoin the method of payment by a sinking fund, but the history of debt payment subsequent to 1876 does not support the first ground for the veto. The large payments made in the early eighties were mainly out of the proceeds of land sales under the "Fifty Cents Law," and out of the general revenue fund.² A sinking fund was provided for in 1879, to which there was transferred from the general revenue fund \$100,000 in 1880, \$150,000 in 1881, and \$100,000 in 1882, or a total of \$350,000, out of which disbursements were made through 1883 of \$346,639.73.³ Contrasted with this amount paid through the agency of a sinking fund are \$740,589.90 paid out of the proceeds from land sales under the act of July 14, 1879, \$192,664.62 out of the general revenue in 1881, and \$852,424.79 out of the general revenue in 1882. The total payments on the funded debt out of the sinking fund, the land sales act, and the general revenue amounted during the three years 1881-1883 to \$2,132,379. The difference between this amount and \$1,680,244, which was the amount of debt paid, is \$452,135, and this difference represents premiums and commissions paid by the state.

The debt paid in the early eighties was the 6% and 7% bonds maturing in 1892, 1904, 1909, and 1910. All of these bonds commanded a very high premium in the market. The 7% bonds due in 1904 were bought at a premium of \$40 on the \$100; the 7's redeemable at the pleasure of the state in 1890 brought a premium of \$30 and \$31; the 6's due in 1892 brought a premium

¹Laws of 1909, p. 536.

²Laws of 1881, p. 51.

³In the Report of the Comptroller, 1879-1880, the general revenue gives \$200,000 as the amount transferred to the sinking fund, but the latter fund gives only \$100,000 as the amount received. The latter figure appears to be the correct one.

of \$25; and the 5's due in 1909 were bought at a premium of \$14 and \$15.¹ In spite of the high premium paid, the gain to the state through interest saved was considerable.² At the same time the premiums were more than they should have been. Their height was due partly to the attractiveness to private investors of the interest rates which the bonds bore, but more especially to the unnecessary competition between the state to secure the bonds for payment and the school fund and the counties to secure the bonds as investments. Until 1884 the permanent school fund was restricted by the constitution in its investments to United States and State of Texas bonds only, and the large amount of proceeds accruing to the fund from sales of land at a time when both the Federal and the state governments were engaged in debt reduction worked a hardship upon the fund and made the cost of debt payment uselessly dear to the state.³ In 1883 a constitutional amendment was adopted which permitted the investment of the permanent school fund in county bonds, and this permission became statute law in 1884.⁴

The trust, or special, funds in the treasury, consisting of the permanent school fund, the permanent university fund, the Agricultural and Mechanical College fund, and the several asylum funds, have come to hold since 1880 the entire bonded debt of the state. In 1880, 34.45% was held by them; in 1890, 71%; in 1900, 81.99%; and in 1911, 100%.

The policy of the state's trust funds to hold the bonded debt has made possible the refunding of the state debt on practically a three per cent basis. In 1891 \$201,000 of the 7% "frontier defense" bonds of 1870 held by individuals were refunded into

¹House Journal, 17th Leg., Called Sess., p. 112. The Commercial and Financial Chronicle, vol. 34, p. 379, and vols. 32-39 *passim*.

²In the case of the 7's which were not payable until 1904, the interest on a one hundred dollar bond from 1882 was \$154, and the \$40 premium deducted leaves a net gain of \$114.

³The Galveston News, April 10, 1881; April 6, 12, June 27, July 1, November 19, and December 14, 1882. Report of the Comptroller, 1881-1882, and 1884. Message of Governor Roberts, January 10, 1883. House Journal, 18th Leg., p. 10.

⁴Laws of 1883, p. 131. Laws of 1884, p. 38.

5% bonds; in 1893 \$486,500 of the 6's and 7's maturing in 1890 and 1891 and held by the trust funds were refunded into 4% and % bonds; in 1903 \$288,000 of 7's held by the trust funds were refunded into 3's; in 1905 \$1,647,000 of 6's held by the trust funds were refunded into 3's, and in 1910 \$1,353,700 5's and 7's held by the trust funds were refunded into 3's. In 1880 43.4% of the debt bore 7% interest; 34.2%, 6%; 22.2%, 5%; and only one-ninth of one per cent bore as low as 4% interest. In 1912 82.7% bore 3% interest; 8.4% bore 4%; and 8.8% bore 5% interest. The annual interest charge has as a result of debt payment and refunding decreased from \$312,389 in 1880 to \$129,691 in 1915.

There has been no increase in the bonded debt of the state since 1879 except in 1885, when a deficit in the general revenue led to the issue of \$200,000 of state bonds.¹ Not classified by the comptroller as a part of the public debt of the state, however, is the bonded debt of the prison system, and for the reason that the bonds are not a charge upon the general revenues of the state but upon the revenues of the prison system. As the prison system is a part of the state government, its debts are really state debts, and certainly no account of the public debt should omit mention of them. The prison system is the only division of the state government which has been authorized by the legislature to issue bonds or which has been permitted to incur at will a floating indebtedness. The industrial activities of the system has made necessary an extensive use of its credit. On December 31, 1911, there were outstanding against the railroad, which was a part of the prison system, \$100,000 of 5% bonds. These were called Texas State Railroad bonds and were held by the permanent school fund.² In 1913 the prison commission was authorized to issue bonds to the

¹An issue of bonds for deficiency purposes was authorized in 1889, but the issue did not have to be made. Laws of 1889, p. 81.

²Message of Governor Colquitt on Prison Affairs, January 30, 1913. Laws of 1913, p. 65. The amount originally issued and purchased by the permanent school fund in 1908 was \$150,000. These were redeemed in 1909, and an issue of \$200,000 was purchased by the fund. On August 31, 1914, the fund held \$100,000 of the bonds.

amount of two million dollars (\$2,000,000) to pay its debts, erect buildings, equip factories, and the like.¹

A constitutional amendment was voted upon by the people and defeated in 1913 which proposed to empower the legislature to authorize the issue of bonds for the purpose of purchasing additional ground and of erecting buildings for the University of Texas and for the purpose of erecting buildings for the different state institutions.² The proposed amendment provided that the income of the permanent university fund should be available to meet the interest on, and provide a sinking fund for, the university bonds.

Deficiencies in the general revenue have led to a floating debt in the form of warrants outstanding at the close of the fiscal years 1894, 1895, 1904, 1905, 1906, and 1913. The amounts were as follows:

1894	\$452,313
1895	760,121
1904	815,168
1905	721,250
1906	348,956
1913	242,529

Deficiencies at other times than at the close of the fiscal year appeared in other years.³

The prison system has had a floating indebtedness throughout its history, but there are no records of its true amounts. The indebtedness of the system on account of losses by fire and freezes, railroad losses, increased operating costs and the like was \$1,528,458 on January 1, 1913.⁴

Treasury deficiencies have been accepted with entire equanimity by the legislature and the people of the state, despite the fact that they are in the end costly to the state and work a hardship upon its creditors. The creditors of the state have

¹Laws of 1913, p. 110.

²Laws of 1913, p. 457.

³1886, 1896, and 1914 are some of the years in which such deficiencies have occurred.

⁴Report and Findings on the Penitentiary Investigating Committee, July 24, 1913, p. 1.

usually been forced by reason of their financial circumstances to have their warrants discounted, and the discount and the loss of the use of their money suffered by the creditors are losses which are to the discredit of the state. A state which permits losses of this character to recur again and again is either ignorant or dishonest, or both. The most obvious method of preventing loss to creditors would be to have all warrants bear a good rate of interest until they were called for payment. This was done in 1860 and 1874 and would seem therefore to be constitutional; but if it is not constitutional, it should be made so. Another method of caring for deficiencies in the general revenue is to sell short time deficiency bonds. Unless they could be sold in anticipation of a deficiency, this method should be supplemented by the preceding method. The present constitution limits the debt which may be created to pay deficiencies to \$200,000. This is wholly inadequate. A constitutional amendment to raise this limit to \$500,000 was defeated in 1913. It is perhaps well that it was defeated, because the amount would have been insufficient; it would not have been sufficient, at least, for the deficiency in 1913-1914. Another method of handling deficiencies in the current revenues is for the treasury to have a large working balance. This is the least desirable method, since it would require the state to raise a larger amount of revenue by taxation than it would ordinarily have use for and would constitute a constant temptation to political governors and legislatures.

CHAPTER 15.

PUBLIC EDUCATION.

A. *The Permanent School Fund.*

The permanent school fund had in bonds and cash on August 31, 1880, \$3,542,126; and on August 31, 1914, it had \$18,030,326 in bonds and cash, and \$47,067,427 of promissory notes of the purchasers of school lands.¹ Superficial comparison of these amounts shows a very large growth in the principal of the fund, but as a matter of fact the growth represents the conversion of the land endowment into bonds and cash. There were 24,850,629 acres of unsold school land in 1880, and the amount in 1914 was 1,847,445 acres. The total amount of cash received by the permanent school fund from land sales during the period 1880-1914 was about seventeen million dollars. Owing to the defective administration of the school lands during the larger part of this period, however, the permanent fund received little of the increase in the value of the lands after 1880.

The rapid accrual of the proceeds of the sale of the lands necessitated changes in the law regulating the investment of the permanent school fund. Until 1883 investment was restricted to United States bonds and State of Texas bonds. The pressure of trust funds seeking investment in United States and the state's bonds on the one hand, and on the other hand the activity of the United States and the state during the early eighties to secure their bonds for payment forced the permanent school fund and the other trust funds of the state to pay large premiums on all bonds which they bought. For example, the par value of the bonds purchased in 1881 and 1882 for the educational and asylum funds of the state was \$894,836, but on account of premiums the cost was \$1,146,260.² A constitutional amendment was proposed

¹The amount of land notes held by the fund in 1880 is not published in any of the state's reports. Table number three of the Report of the Comptroller for 1914 gives as the amount of railroad bonds held by the fund \$1,703,317. This figure is a wholly obsolete one; the actual amount, including \$100,000 of state penitentiary railroad bonds, was \$368,884. Report of State Treasurer, 1914, p. 36.

²The Galveston News, February 13, 1883.

and adopted in 1883 which provided that investment should be in the State of Texas and United States bonds, bonds of counties in this state and in such other securities as the legislature might direct.¹ County bonds were the only new investments authorized by the legislature.² On August 31, 1884, the permanent school fund held \$1,602,298 of county bonds; and on August 31, 1915, it held \$9,188,575. In 1885 it was enacted that no bonds which bore less than six per cent interest, other than those of the State of Texas or of the United States should be purchased by any trust fund of the state, nor, with the same exception, should more than par be paid for any bond.³

In 1891 Governor Hogg advocated that the first mortgage bonds of railroads which might thereafter be constructed in the state should be added to the legal list of investments of the permanent school fund.⁴ This proposal ranked in popular interest next to the proposed creation of a railroad commission.⁵ It was argued in favor of the proposal (1) that existing provisions relating to investments were not sufficient to prevent a surplus from accumulating in the permanent fund; (2) that investments in county bonds were encouraging a spirit of extravagance in the counties; (3) that needed railroad construction would be fostered, and (4) that previous investments of the fund in railroad securities had been satisfactory.⁶ In opposition it was stated (1) that the security would be inadequate; (2) that speculative railroad building would be stimulated; and (3) that there were more important objects than railroads which needed to be encouraged.⁷ Substitute proposals were (1) that loans should be made to the people on real estate security, or (2) that the state should borrow the money at a low rate of interest and apply the proceeds to meeting current expenditures, thereby reducing taxes; or (3) that

¹Laws of 1883, p. 131. Laws of 1884, p. 1.

²Laws of 1884, p. 39.

³Laws of 1885, p. 41.

⁴House Journal, 22nd Leg., Reg. Sess., p. 113.

⁵The Galveston News, February 1, 1891.

⁶Message of Governor Hogg, January 21, 1891; House Journal, 22nd Leg., Reg. Sess., p. 113.

⁷See Galveston News, January 28, and February 1, 1891. The News itself seemed to favor Governor Hogg's proposal.

investments in the securities of towns and villages organized as school districts should be authorized.¹

None of the foregoing proposals was adopted, but instead an amendment to the constitution was proposed and adopted in 1891 which authorized the legislature to transfer annually from the permanent school fund to the available school fund not more than one per cent of the permanent school fund, and in 1892 a law was enacted which provided for an annual transfer of one per cent.² The purpose of this amendment and statute was to help the available school fund in its effort to carry out the constitutional mandate that the public free schools should be maintained each year for a period of not less than six months.³ The law was repealed March 1, 1899, after a total of \$1,336,461.68 was transferred. The amounts transferred each year were small in proportion to the size of the available school fund. The small benefit to the available fund of the transfer and the impairment of the principal of the permanent fund by this diversion call for an unfavorable judgment upon the legislation.

In 1893 investment in county bonds bearing not less than five per cent interest was authorized to the permanent fund.⁴ By 1899 money was accumulating in the fund beyond its ability under the law to invest it. Consequently the bonds of incorporated cities were made legal investments of the fund, and the state board of education was given an option of ten days on all bonds afterwards issued by the counties and incorporated cities of the state.⁵ The purchase of bonds bearing as low as three per cent interest was authorized, and it was further provided that should a premium be paid an amount equal to the premium should be transferred to the permanent school fund out of the interest on the bonds when received by the available school fund. This pro-

¹See *Galveston News*, January 28 and February 1, 1891. See letter signed "Progressive Texan" in the *News* of February 1, 1891.

²Laws of 1891, p. 195. Laws of 1892, p. 8. This amendment has been called the "Jester Amendment."

³Message of Governor Hogg, March 14, 1892; House Journal, 22nd Leg., Called Sess., p. 19.

⁴Laws of 1893, p. 184.

⁵Laws of 1899, pp. 143 and 231. Message of Governor Sayers, January 16, 1903.

vision was designed to prevent an impairment of the principal of the fund similar to what had been done in the early eighties. If bonds were purchased at a discount, the law required that the discount should be turned over to the available school fund when the bonds were paid. In 1901 the bonds of independent school districts were made legal investments, and in 1909 the bonds of common school, road, drainage, irrigation, navigation and levee districts were added to the list.¹ On August 31, 1915, the permanent school fund held \$6,454,613 of city and school district bonds.

According to the comptroller's report for 1915 the permanent school fund had on hand August 31, 1915, \$1,703,317 of railroad bonds. Of these \$1,603,317 were purchased under the act of 1856 and \$100,000 were state penitentiary railroad bonds. The actual amount of the bonds purchased under the act of 1856 which were in good standing was \$263,533.² The railroads which had borrowed of the school fund under the act of 1856, with the exception of the Houston Tap and Brazoria which was sold under foreclosure proceedings by the state in 1871, made payments of interest and sinking fund in accordance with the act of August 13, 1870. The Houston and Texas Central acting for the Washington County Railroad stopped payments to the school fund on the debt of the Washington County Railroad on November 1, 1879, claiming that the debt to the fund was paid.

The contention of the Houston and Texas Central was that the state warrants which had been received by the state for the interest and sinking fund obligations of the Washington County Railroad were valid tender and that the amount of the payments in such tender added to the payments since 1870, together with payments at other times, constituted a full discharge of the debt.³

¹Laws of 1901, p. 312. Laws of 1909, p. 216. In 1910 Galveston County Causeway bonds were admitted to the list of legal investments. Special Laws of 1910, pp. 53, and 161. Rev. Civil Stats., 1911, art. 2736.

²Report of the Comptroller, 1915, p. 18. The amount given in table three of this report should be changed to fit the facts. See also Report of the State Treasurer, 1914, p. 36.

³Message of Governor Roberts on the Special School Fund Loaned to Railroad Companies, January 11, 1881. Report of the Comptroller, 1891, p. XIX.

The state did not contest the refusal of the railroad to make further payments. In 1883, however, when the state made provision for the payment of the bonds which had been executed to the school fund under the act of November 15, 1864, it was enacted that the interest and sinking fund payments on the amounts paid in warrants by the railroads in 1864 and charged as principal in 1870, which payments the railroads were making under protest, should thereafter constitute a part of the revenue of the state.¹ The amount paid over by the available school fund during the ten years 1885-1894 was \$90,957.46. The Houston and Texas Central and the Galveston, Harrisburg and San Antonio railroads made payments up to November 1, 1893, of the interest and sinking fund on their own debts to the school funds, but they stopped payments at that date and claimed that their debts to the fund were fully paid. This claim was based, like that in behalf of the Washington County Railroad, upon the validity of the payments in state warrants in 1864 and 1865. The state brought suit to compel further payments, and the district and the supreme courts of the state found in favor of the state. The state courts held that the payments in treasury warrants in 1864 and 1865 were null and void. But the Supreme Court of the United States reversed the decision and held that the payments in state warrants were valid.² The Southern Pacific (the old Texas and Pacific) and the Texas and New Orleans were the only roads indebted to the school fund which were not involved in this decision. The Southern Pacific completed payment on its debt in 1898, and the railroad bonds held by the permanent school fund were accordingly reduced \$150,000 in amount. The Texas and New Orleans was the only road on August 31, 1915, which was indebted to the permanent fund under the act of 1856, and this was to the amount of \$263,533.³

The policy of investment for the permanent school fund since

¹Laws of 1883, p. 15.

²H. & T. C. R. R. v. Texas, 177 U. S., 66-103 (1899). Report of the Comptroller, 1898, p. XI, and 1902, p. 5.

³The reports of the comptroller, however, contain tables of the obsolete indebtedness of the Galveston, Harrisburg and San Antonio, the Houston and Texas Central, and the Washington County railroad companies. See Report of the Comptroller, 1915, pp. 19-20.

the Civil War has been to restrict the investments to public securities, and this has been a wise policy. The success, with one exception, of the investments in railroad bonds under the act of 1856 does not ensure the success of similar investments today. The old investments were made before the days of overcapitalization abuses, and though railroad capitalization is regulated in Texas today, this regulation has not prevented roads built subject to the law from getting into serious financial difficulties. The restrictions imposed upon the issue of public bonds and the broadness of their security make them the safest investments for trust funds.

In 1883 the state "debt of doubtful validity" held by the permanent school fund was validated and ordered paid with accrued interest of \$111,414.45.¹ The 6% bonds to the amount of \$320,367.13 which had been held by the school fund since May 13, 1865, were paid with accrued interest in 1883; but the principal of the \$82,168.82 5% bonds, which had been carried by the fund since 1868, were not paid until 1885, though the accrued interest on them was paid in 1883.

In addition to the state permanent school fund there are county permanent school funds which are based on the land grants made to the counties for educational purposes. The sale of the lands and the investment of the proceeds have been vested in the county commissioners' courts, subject, however, to a modicum of state regulation. On August 31, 1914, the several county permanent school funds amounted as follows:²

Land notes	\$ 5,379,899
Bonds and other securities.....	4,709,604
Cash	449,975
Unsold lands (estimated value).....	2,085,448
Total.....	<u>\$12,624,927</u>

The income of the county funds in 1914 was \$545,816.

¹Laws of 1883, p. 15.

²MSS. Report of the Superintendent of Public Instruction, 1913-1914. No statistical report of the superintendent of public instruction was published for 1913-1914. For a brief account of the legislation to 1890 relating to county school lands see Sayles, *op. cit.*, pp. 411-417.

B. The Available School Fund.

The available school fund has had an enormous growth since 1880. In 1880 the receipts to the fund from taxes were only \$497,166.40 and from interest on the permanent school fund, \$198,317.79; and the combined receipts from these two principal sources of revenue were \$695,484.19. The receipts from the permanent fund were \$18,672.45 from interest on land sales and \$179,645.34 from interest on state and railroad bonds. On August 31, 1915, the receipts to the available fund from taxes were \$5,851,761.82, and from the permanent fund \$2,147,297.35, a total of \$7,999,059.17. Interest on land sales provided after taxes the largest revenue, amounting to \$1,319,401.20 in 1915; interest on county and common school district bonds came next with \$385,767.20; then, in order, interest on city and independent school district bonds, \$323,922.67; interest on state bonds, \$87,605; interest on railroad bonds, \$16,052.40; interest on state penitentiary railroad bonds, \$5,000; interest on deposits, \$1,751.16; land leases, \$669.53, and unclassified, \$7,127.69.¹

The receipts from taxes during the thirty-two years 1880-1912 were \$64,549,279.31 and from interest on the permanent fund and lease of lands, \$38,996,079.38. The constituents of the receipts from the permanent fund were \$18,785,708.73 from interest on land sales; \$7,465,427.75 from interest on county, city and school district bonds; \$6,910,707.97 from lease of lands; \$3,868,581.63 from interest on state bonds; \$1,546,193.91 from interest on railroad bonds; \$371,018.24 from state and railroad bonds not separated in amounts; \$31,376.55 from interest on state penitentiary railroad bonds; and \$17,064 from interest on deposits.

Owing to the reduction of the available school fund's share of the general revenue in 1880 and 1881 to one-sixth, the years 1880 and 1881 make the poorest showing as to the amount of the available fund and per capita apportionment for any years since 1877. The amount apportioned in 1880 was \$679.317, the per capita apportionment was \$3.00, and the scholastic ages were from eight to fourteen. One-sixth of the general revenue rate was equivalent to a school tax rate of six and two-thirds cents in 1880 and five cents in 1881. The school tax rate in 1915 was 20 cents,

¹Report of the Comptroller, 1915, p. 6.

the amount apportioned was \$8,772,109, the per capital apportionment was \$8.00, and the scholastic ages were from seven to sixteen.¹ But between 1880 and 1915 a number of changes were made which related to the available fund.

The share of the general revenue going to the available school fund was restored to one-fourth for 1882 and 1883, and this was equivalent to an ad valorem rate of 7½ cents each year.

The early eighties were critical years in the history of the available school fund. There was then a considerable number of people in the state who were hostile to public education and opposed to any system better than the one that was then in operation.² There were also those people who looked forward to a marvelous growth of the permanent school fund which would provide such an income to the available fund as would render unnecessary any taxation for educational purposes.³ But the educational situation in the early eighties in Texas was lamentable. The average school term in 1880 was seventy-two days, though the constitution contemplated one hundred and twenty days.⁴ The average salary of white male teachers was \$34, that of female teachers, \$28. There were no local school taxes levied in the state in 1880, except in two or three independent city districts,⁵ so that the support of the schools was solely the meager dole of the state out of the available school fund.

Friends of public education realized that to rely upon the income from the permanent fund to provide an adequate system of public common schools was a delusion and that the only way to secure such a system was by state and local taxation.⁶ The state platform of the Democratic party in 1882 called for the submission of a constitutional amendment providing for a special

¹Owing to failure to collect all of the revenues, the school board was unable to apportion the full amount agreed upon, \$8,772,109. About \$7 was paid out in 1915, and the remaining \$1 was paid in 1916.

²See the *Galveston News*, April 7, 1881.

³See the *Galveston News*, July 2 and 8, 1882.

⁴Biennial Report of the State Board of Education, 1879-1880, p. 3.

⁵*Ibid.*, p. 6. Report of the Superintendent of Public Instruction, 1897-1898, p. V.

⁶*Galveston News*, July 2, 1882. Biennial Report of the State Board of Education, 1879-1880, p. 6.

school tax,¹ and in 1883 an amendment was adopted which authorized a special state school tax not to exceed twenty cents on the one hundred dollars' valuation.² At the same time the opportunity for local taxation was enlarged by the authority granted to form school districts within the counties and to levy a district tax not to exceed twenty cents on the one hundred dollars' valuation.³

A state school tax of 12½ cents was adopted for 1884 and that rate was unchanged until 1895.⁴ But reliance upon the income from the permanent fund rather than upon taxation and also the defective or inefficient administrative handling of the available fund resulted in numerous temporary deficiencies in the fund. Teachers already poorly paid had their salaries diminished by having to sell their salary warrants at a heavy discount.

One cause of the deficiencies which commonly made their appearance during the late summer and early fall months was the exhaustion of the balance carried over from the previous fiscal year and the practical absence of any tax payments during these months.⁵ Another cause was the fluctuation in the receipts from interest on land sales and from lease of lands.⁶ For example, the receipts from interest on land sales fell from \$455,379 in 1885 to \$340,166 in 1886, and from \$616,284 in 1893 to \$282,823 in 1894. A drought would parch the western part of the state, as was the case in 1888, and the legislature would very justly grant to delinquent purchasers several months extension for the payment of interest, but this would cause a deficiency in the available school fund. There were deficiencies in 1887, 1888 and 1889, and in 1888 the available school fund was loaned \$504,000 out of the general revenue in order that the outstanding warrants against the fund could be paid.⁷ \$254,000 of this amount

¹Galveston News, September 12, 1882. See also issues of February 22 and March 3, 1883.

²Laws of 1884, pp. IV and 38.

³Laws of 1884, p. 38.

⁴Laws of 1884, p. 67.

⁵Report of the Superintendent of Public Instruction, 1887-1888, p. 19.

⁶Reports of the comptroller, 1887, 1888. Galveston News, April 24, 1888. Message of Governor Culberson, January 16, 1895; House Journal, 24th Leg., p. 52.

⁷Laws of 1888, p. 7.

was a loan without interest and was to be returned not later than January 1, 1895, if the condition of the available fund at that date should warrant it. It was not returned. The other \$250,000 was the loan of a sinking fund for the state bonds maturing in 1890 and 1891. It, too, was never repaid. But in spite of this loan there was a deficit in the following year, 1889.¹

The vicissitudes of the school fund during the latter eighties explain the adoption of the "Jester Amendment" by which one per cent of the permanent school fund was transferred. The first transfer was made in 1892, the last in 1898, and a total of \$1,336,461.68 was transferred. But this law was ineffective to prevent deficiencies, and on August 31, 1894, the amount of the deficiency was \$659,468.50.² During the preceding years of financial depression and of inefficient administration, there accumulated arrears of interest on land sales and of lease payments estimated to amount to \$1,000,000 on January 1, 1895.³ To meet the bad conditions the state school tax rate was fixed at 20 cents for 1895 and at 18 cents thereafter. The rate remained at 18 cents until 1907 when it was again fixed at 20 cents, but from 1907 through 1912 it was 16 $\frac{2}{3}$ cents. In 1913 the rate was 17 cents and in 1914 and 1915 it was 20 cents. The increase in the rate for 1907 was to compensate for the loss to the fund from the expected repeal of the license taxes upon the so-called useful occupations.⁴

The school tax rate has been fixed since 1907 by the automatic tax rate board.⁵ The board fixes a rate which will produce \$4 per capita of the children within the scholastic ages, provided the rate does not exceed the constitutional limit of twenty cents. In 1908 the constitutional maximum of the independent school district tax was raised to 20 cents.⁶ Local taxes for public schools increased from \$469,392 in 1891 to \$5,642,482 in 1911.⁷

¹Galveston News, April 4, 1889.

²Report of the Superintendent of Public Instruction, 1893-1894, p. IX.

³Message of Governor Culberson, January 16, 1895.

⁴Laws of 1907, p. 141.

⁵Laws of 1907, p. 465.

⁶Laws of 1909, p. 18.

⁷The statistics for 1911 are taken from the Report of the United States Commissioner of Education, 1912, vol. 2, p. 14.

The system of distribution of the available school fund among the counties of the state has been frequently criticized.¹ Apportionment on the basis of scholastic population operates to cause a certain inequality between the counties which have a large margin between school attendance and scholastic population and the counties which have a small margin. The compulsory education law will be one remedy for this inequality, while another remedy would be to base apportionment on the number in attendance on the schools the previous year. Another inequality charged against the present system of distribution is that some of the wealthier counties take out of the fund more than they contribute in taxes. This is rank injustice, but it is due rather to the weakness in the state's system of assessing property for state purposes than to the method of apportionment of the school funds.

Though Texas has the largest permanent school fund of any state in the Union and though the available school fund bulks large in absolute amount, the state ranks low in educational standards. Progress is being made, however, as is shown by the increase in the expenditures per capita of population and in the growth in the per cent of the scholastic population enrolled in the public schools.² In 1915 a compulsory education law was adopted, and an appropriation of \$500,000 a year for two years in aid of the country public schools was made.³ These were epochal measures and will promote greatly the educational progress of the state.

Expended per capita of population.	Per cent of school population enrolled.
1879-1880 .....\$0.65	42.40
1889-1890 1.42	59.50
1899-1900 1.46	64.67
1909-1910 3.02	67.24
1910-1911 2.96	65.66

¹Report of the Superintendent of Public Instruction, 1885-1886, p. 14; 1897-1898, p. XV.

²Report of the United States Commissioner of Education, 1912, vol. 2, pp. 8 and 15.

³Laws of 1915, Reg. Sess., p. 92. Laws of 1915, Spec. Sess., p. 22.

C. The University of Texas.

In 1880 Texas did not expend out of the general revenue as much as one cent on higher education. There was disbursed, however, out of the university land sales fund and the Agricultural and Mechanical College fund \$35,754.99 for the Agricultural and Mechanical College and the Prairie View Normal. In 1915 \$1,219,093.91 was expended out of the general revenue and \$328,215.57 out of the special funds—a total of \$1,547,309.48—for higher education.¹ This growth in expenditures for higher education has attended the establishment and development of the University of Texas, four normals, and the Girls' Industrial College, and the expansion of the Agricultural and Mechanical College and the Prairie View Normal.

In 1880 there was one active university account upon the books of the treasury and it was called the "University Land Sales Account"; another account called the "University Fund" was inactive and was made up only of the state bonds of doubtful validity, amounting to \$134,472.24. Into the university land sales account went the receipts from the sale of university lands and from the interest on bonds. The receipts from land sales were invested in State of Texas bonds, as required by the constitution (art. 7, sec. 11), while the interest receipts were expended in 1880 for a clerk in the state treasury department, for surveying the university lands, and for the maintenance of the Agricultural and Mechanical College and the Prairie View Normal.

In 1882 the "University Land Sales Account" was succeeded upon the books of the treasury by the "Permanent University Fund" and the "Available University Fund."² The permanent fund is, in the language of the constitution (art. 7, sec. 11), made up of "all lands and other property heretofore set apart and appropriated for the establishment and maintenance of the University of Texas, together with all the proceeds of sales of the same, heretofore or hereafter to be made, and all grants,

¹The amount given as expended out of the general revenue was the amount of warrants drawn on that fund.

²The two other funds, the University Fund and the University Fund Expense Account, disappear after 1883.

donations and appropriations that may hereafter be made by the State of Texas, or from any other source." In 1882 the permanent university fund received from the university land sales account \$332,435.66 in State of Texas bonds, a comptroller's certificate of indebtedness for \$10,300.41 and \$986.61 in cash. The available university fund received from the land sales account \$34,464.34 in bonds.

The constitution requires that the permanent fund shall be invested in State of Texas bonds, but if they should not be obtainable, in United States bonds. In 1889 when the general revenue account was threatened with a deficiency it was enacted that 5 per cent bonds of the state should be sold at par to the permanent university fund, these bonds to be redeemable at the pleasure of the state.¹ This measure, passed as it was to provide for an emergency, has not been repealed, though as a standing method of increasing the state debt it is doubtless unconstitutional.² The permanent fund held in 1915 \$429,700 of 3 per cent state bonds and \$173,900 of 5 per cent state bonds. The fund could be invested to better advantage than in 3 per cent state bonds. City, county, and school and other special district bonds are issued which bear 5 per cent, 5½ per cent and 6 per cent interest, and if these are acceptable investments for the permanent school fund they should be for all the permanent funds.

The state debt of doubtful validity was validated and ordered paid with accrued interest in 1883.³ The total received by the university funds was \$256,272.57, of which \$144,772.65 was of the nature of the principal of a debt. The available university fund received of this payment \$132,056.16 in 1883 and 1884.

With the exception of the payment of the debt of doubtful validity the history of the permanent university fund since 1880 has been uneventful. From 1880 through 1915 the total received by the fund from sales of land was \$291,711.34, and this sum represents, with one exception, the payments on the purchase price of the lands contained in the old endowment of fifty

¹Laws of 1889, p. 81.

²Revised Civil Stats., 1911, art. 2652.

³Acts of 1883, p. 15. House Journal, 17th Leg., Called Sess., p. 27.

leagues.¹ The western lands of the University have not been on the market for sale during this period. In 1881 there were 32,335 acres of the fifty leagues grant unsold and the unpaid balances on the notes given in purchase amounted to \$155,000;² by 1915 all of the fifty leagues were sold and there was \$26,572.77 in land notes.³

The interest on the bonds and other interest-bearing assets of the permanent fund goes into the available university fund and is expended under the direction of the legislature. In 1880 the disposable income amounted to \$24,515 and was classified as derived from interest on state bonds.⁴ In 1915 the available fund received \$228,850.32 exclusive of legislative appropriations. \$169,057.11 of this amount was derived from lease of lands; \$34,855.86 from student fees; \$21,586 from interest on state bonds; \$1,135.16 from interest on land notes; and \$2,216 from interest on rentals past due.⁵ Until 1897 interest on state bonds was the leading source of income to the available fund, but in that year lease of lands took the lead. Receipts from lease of university lands began in 1887 when they amounted to \$451.20.

The available university fund has been drawn upon by the legislature from time to time for appropriations to the Agricultural and Mechanical College and the Prairie View Normal School. From 1880 through 1889 \$55,600 was diverted to Prairie View and from 1880 through 1899 \$65,000 was appropriated to the Agricultural and Mechanical College. In 1861 and 1862 the state used \$11,307.02 of the university fund for which no restitution was made in 1883. So in 1888 when Texas received nearly one million dollars from the United States as in-

¹The reports of the comptroller for 1905 and 1906 are wholly erroneous as to the receipts from sale of university lands, and the reports since 1909 do not classify the receipts to the available university fund from interest on land sales, etc. The data for these years have been obtained from the reports of the board of regents.

²Report of the Board of Regents, 1882, p. 6.

³See chapter on public lands for a further account of the university lands.

⁴There is no information as to the amount of interest on land notes.

⁵These statistics were obtained from the manuscript report of the auditor of the main University. They differ from those in the comptroller's report for 1915.

demnity for expenses in protecting the frontier the claims of the University were presented for funds diverted and for losses on account of Confederate notes received in payment of land during the Civil War. Under the guise of a loan which was to be repaid on or before January 1, 1910, the available fund received \$125,000 which was stated to be in full satisfaction of all claims of the University for money drawn by the state.¹

The disbursements of the available university fund from 1882 through 1915, excluding \$150,000 received by the fund from the general revenue and the \$50,000 of the fund appropriated to the Agricultural and Mechanical College, amounted to \$3,373,896.70. In this same period there was disbursed for the University out of the general revenue fund of the state \$4,349,860.99.² Appropriations out of the general treasury have shown a tendency since 1900 to be more liberal; at the same time they have not grown with the needs of the institution if the reports of the board of regents are to be trusted. In recent years the University has felt keenly the need of more buildings. The constitution (art. 7, sec. 14) prohibits any appropriation of money out of the general revenue for university buildings. This limitation is one of the many archaic financial provisions of the present constitution. In 1881 it was circumvented by an appropriation under the guise of a loan, but in 1891 an appropriation for a building was made outright. The legislature has since 1891 provided for buildings for the University and the Agricultural and Mechanical College, but the items have been vetoed on constitutional grounds, though the veto has not been consistently applied in the case of either institution and especially in the case of the Agricultural and Mechanical College, which is legally a branch of the University of Texas. In 1913 a constitutional amendment was submitted to the people which proposed to empower the legislature to authorize the issue of bonds for the purpose of purchasing additional grounds and of erecting buildings for the University, but the amendment was un-

¹Laws of 1888, p. 19. J. J. Lane, *History of Education in Texas*, p. 142.

²This is the amount of warrants drawn. Because of typographical errors in the reports of the comptroller's department one cannot be sure that this amount is correct.

fortunately too plenary in its proposed grant of power to increase debt, though its defeat was actually accomplished by a factional spirit and by the blind "no debt, lighter tax" sentiment.¹ The principal of the proposal is incontestably correct, however, and it has been adopted by the state in the case of the penitentiary system.

D. The Agricultural and Mechanical College.

The permanent fund of the Agricultural and Mechanical College has consisted up to the present time of the \$209,000 of state bonds in which the proceeds of the sale of original land endowment by the Federal government were invested. Since by the Constitution of 1876 (art. 7, sec. 13) the College is a branch of the University of Texas the permanent university fund is in a way the permanent fund also of the College. And in the grant to the University of one million acres of land in 1883 the act specified that this land endowment was for the University and its branches, including the branch for the education of negroes.²

The income from the Agricultural and Mechanical College fund constitutes but a fraction of the receipts of the college. In 1915 it amounted to only \$6,150. From 1880 to 1890 the university fund contributed substantially to the maintenance of the college and from 1880 through 1899 the total of the university funds appropriated to the college was \$65,000. Since 1900 there has been a tendency for more liberal treatment of the institution by the legislature. The total disbursements out of the general treasury for the College and the experiment stations during the period 1880-1915 was \$3,618,210.³ The amount

¹Laws of 1913, p. 457.

²J. J. Lane, *History of Education in Texas*, p. 135. As a result of an agreement between the governing boards of the two institutions the University has turned over to the A. and M. a share of the permanent fund in the form of land notes, but this has not proven to be satisfactory. A constitutional amendment was defeated in July, 1915, which provided for a division of the land endowment and for a repeal of the constitutional provision against appropriations out of the state treasury for buildings for the University.

³This is the amount of warrants drawn on the general treasury of the state.

derived during this period from the permanent fund of the institution was over \$515,000.¹ The Agricultural and Mechanical College is the beneficiary of the experiment station acts of the Federal government, and in addition, it has received the fees for the state inspection of animal foodstuffs and state control of fertilizers.²

E. Other Higher Educational Institutions.

The other state institutions for higher education, consisting of the Girls' Industrial College, the Sam Houston Normal, the North Texas State Normal, the Southwest Texas State Normal, the West Texas State Normal, and the Prairie View Normal were all, with the exception of the last, established since 1880. The Girls' Industrial College dates from 1901 and up to 1915 it had received \$756,410.54 out of the general treasury. The great growth in the expenditures for the white normals dates from 1900. Between 1900 and 1915 three of them were established and disbursements increased from \$40,499.73 to \$251,769.19. The total disbursed for the white normals since 1880 and through 1915 was \$2,771,168.39. In 1915 provision was made for the establishment of three more normals. The Prairie View Normal for negroes is under the control of the Agricultural and Mechanical College and the College shares with the normal the funds received from the Federal government. The university fund contributed \$55,600 to the support of Prairie View between 1880 and 1890. From 1880 through 1915 the disbursements out of the general treasury for this normal amounted to \$747,688.47.³

¹The exact amount cannot be derived from the comptrollers' reports because of their failure to separate investment disbursements from other disbursements. The gross total of the disbursements is \$536,947.37.

²Owing to the way in which the financial statements are drawn up in the reports of the board of directors of the College it has not been possible to include in this study any other receipts or expenditures than those given in the reports of the comptroller. This excludes the amounts received from fees and from the Federal government.

³The amounts given for all of these institutions are of warrants drawn on the general treasury of the state.

F. A Special Tax.

A special tax for the benefit of all the higher educational institutions has been earnestly urged by the friends of public higher education. The constitution (art. 3, sec. 48) legalizes a tax for the support of the institutions, with the exception of the normals. It reads that the legislature shall have the right to levy taxes for "the support of public schools, in which shall be included colleges and universities established by the state; and the maintenance and support of the Agricultural and Mechanical College of Texas." But the possible conflict between this provision and article 7, section 14, which prohibits the use of the funds of the general treasury for buildings for the University and the exclusion of the normals, makes a new constitutional grant of special taxation desirable to the University and the Agricultural and Mechanical College and the normals. An adequate special tax is pressingly needed in order that the institutions may be spared the biennial scramble for appropriations, and in order that they may plan an orderly development and with sureness work to the realization of their highest possibilities.

CHAPTER 16.

FINANCIAL ADMINISTRATION.

The governor is required by the constitution to "present estimates of the amount of money required to be raised by taxation for all purposes."¹ It has long been the practice for the comptroller to receive from the departments and institutions of the state estimates of their needs, and such estimates are usually itemized. These are published in the report of the comptroller, and they constitute the data from which the legislature works in making appropriations for the ensuing two years.

Upon the appointment of the appropriation committee of the house of representatives and of the finance committee of the senate, work upon the general appropriation bill begins. Besides the general appropriation act, which deals with over sixty departments and institutions, there are separate acts which carry appropriations. The appropriation committee has jurisdiction over all bills appropriating money. It is impossible for the two large committees, the appropriation committee and the finance committee, to deal intelligently during the short time of a legislative session with the data submitted at the beginning of the session, and the practice prevails of appointing sub-committees to examine the institutions and report upon their needs. The reports of the sub-committees are practically final so far as the work of the larger committees is concerned. When a bill appropriating money is reported to the house of representatives, the house resolves itself into a committee of the whole house for the consideration of the bill. This rule has been disregarded in many instances.²

It is customary for the appropriation bills to itemize minutely the grants to the various state departments and most of the state

¹Art. 4, sec. 9.

²House Journal, 32nd Leg., Reg. Sess., p. 1482.

institutions. The exceptions from minute itemization have been the higher educational institutions and the penitentiary.¹

The constitution provides that "if any bill presented to the governor contains several items of appropriation, he may object to one or more of such items, and approve the other portion of the bill."² Though a veto may be overridden by a two-thirds majority of the members present of each branch of the legislature, the fact that the appropriation bill is one of the last to be passed and that the governor has ten days in which to consider it, results in a veto remaining unchallenged. The more minute the itemization, the greater is the check by the governor upon appropriations. The veto right has been frequently exercised. The system of biennial appropriations, combined with the veto prerogative and the constitutional prohibition of appropriations out of the general treasury for the construction of university buildings not only have proved a handicap to the development of any permanent policy by the higher educational institutions but also have resulted at times in serious jeopardy even to the maintenance of the institutions along existing lines of activity.

Since 1899 there has been a considerable increase in the length of the appropriation act through the introduction of provisos and limiting conditions which refer to the transfer of surpluses, the creation of deficiencies, and such. Since 1905 there has been regularly incorporated in it a provision against the diversion of a surplus from one account to another and against the creation of deficiencies by any department or institution. The provisions against deficiencies have not, however, repealed or impaired the enactment of 1897 which controls the creation of deficiencies.³ That enactment provides that the state's officers or agents shall

¹In 1903 the appropriations of the University and the Agricultural and Mechanical College were itemized, though those of the normals were not. A failure, or refusal, of the legislature to itemize the university appropriation for 1915 led to the vetoing of the appropriation by Governor Colquitt. The item amounted to \$700,250. The state Democratic platform of 1914 called for itemization of all appropriations, and this was done in the appropriation act of 1915.

²Art. 4, sec. 14.

³Laws of 1897, Reg. Sess., p. 46. Laws of 1910, Third Called Sess., p. 39. Rev. Civ. Stat., 1911, art. 4342.

at least thirty days before a deficiency occurs make out a sworn estimate of the amount necessary to cover such a deficiency until the meeting of the next legislature. The estimate shall be filed with the governor and when approved by him shall be filed with the comptroller. Fees and dues for which the state is liable under general law,—for example, judicial fees, are not subject to the provisions of this act; and another exception is that when any injury or damage shall occur to any public property from flood, storm or any unavoidable cause, the estimate may be filed at once. After estimates have been filed and approved, deficiency warrants shall be issued by the comptroller, and unless there is existing a deficiency appropriation, the warrants shall remain unpaid until the legislature meets and makes an appropriation.

From 1909 to 1913 it was incorporated in appropriation acts that any unexpended portion of an appropriation for one year for maintenance and support, for the erection, remodeling, equipment or repair of buildings or for any institution of the state shall not lapse but shall be available for the following year. There are no permanent appropriations, the constitution providing that no appropriation of money may be made for a term longer than two years.¹ The practice has prevailed, however, to keep open unexhausted appropriations for a longer period.²

From 1879 to 1901 the fiscal year ended August 31, at which date the accounts of officers, departments, and institutions were closed and report of the transactions and activities of the year made, while the appropriation year ended February 28. In making estimates of needs it was necessary to consider either a part of two appropriation years, or a part of two fiscal years; and as the legislature was in session as a rule every two years at the close of the appropriation year and as the appropriation bill was usually passed at a date later than February 28, it was not uncommon for the state government to have to run on credit until the appropriation bill was passed.³ Despite complaints and the

¹Art. 8, sec. 6.

²Report on Audit, Organization and Methods, 1909, p. 151. The practice was condemned in this report.

³In 1897, for example, there were no appropriations to pay state expenses from March 1 to June 20.

regular biennial recommendations by the comptroller for a change this situation was not corrected until 1901, when the appropriation year was made to end August 31, thus coinciding with the fiscal year.¹ Recently it has been advocated that the fiscal year and the taxpaying year should be made to coincide and they both should conform to the calendar year.² It is contended that a change of this kind will prevent the recurrence of treasury deficits. It is difficult to see how this would be an inevitable result, unless the state should adopt at the same time the policy of maintaining a large working balance in the treasury.

No thought was taken until 1907—or at least none that led to any results—as to whether or not the state's business was organized and conducted as efficiently as its importance and magnitude demanded. In 1907 a board of state accounting was created whose duty it was to investigate the methods employed in accounting and transacting business in the departments of the state treasurer, comptroller, general land office, and in the penitentiaries, and in other departments as might be determined upon, and to recommend changes in the interest of economy and efficiency.³ A firm of certified accountants was employed and their report, covering only the departments of the treasurer, the comptroller, and the general land office, was made under date of January 22, 1909. As a result of their recommendations, the treasury department was reorganized and changes made in the general land office in 1909, and the comptroller's department was reorganized in 1910.⁴ The appropriation for the treasurer and seventeen clerks was \$24,270 in 1908; it was \$11,400 for the treasurer and six clerks in 1910; for the comptroller and forty-three clerks the appropriation for salaries in 1909 was \$53,745. In 1912 it was \$37,815 for the comptroller and twenty-eight clerks. The work of the school land department of the treasury which

¹Laws of 1901, Reg. Sess., p. 8. Report of the State Revenue Agent, 1897-1898. Before 1879 both years ended August 31, but in order to meet an emergency which existed in 1879, and which was peculiar to that year only, the appropriation year was made to begin March 1. See Report of the Comptroller, 1884.

²Report of the State Treasurer, 1914, p. 4.

³Laws of 1907, p. 52.

⁴Laws of 1909, pp. 429, 438. Laws of 1910, Third Called Sess., p. 37.

engaged ten clerks in 1908 was transferred to the general land office. The force of the general land office in 1908 was the commissioner and forty-nine clerks, and the salaries paid amounted to \$63,990; in 1910 it was composed of the commissioner and fifty-three clerks and salaries paid were \$69,290. The reduction in the number of employees in the comptroller's department was too drastic, however; its new clerical strength was inadequate to keep up with the demands made upon it, and in 1912 additional help had to be authorized.

Until 1907 the rates of state taxation for general revenue and for public free school purposes were fixed by the legislature. It took into consideration the assessed values, the revenue from other sources than the ad valorem tax, the probable changes in the assessed values, the cost and loss involved in assessment and collection, and the appropriations for the ensuing two years. In 1907 there was established what is known as the Automatic Tax Board to which was entrusted the calculation of the state rates.¹ As amended in 1909 the law makes the governor, the comptroller, and the treasurer a board for calculating the ad valorem tax for general revenue and school purposes. The assessors report to this board by July 15 of each year the tentative assessments in their counties, and the total of these is the base of the ad valorem taxes. The method of arriving at the sum to be raised is as follows: the revenue from sources other than the ad valorem tax for state purposes derived during the first half of the current calendar year and the latter half of the preceding calendar year is deducted from the total of the appropriations for the following fiscal year. The remainder plus 20 per cent is then divided by the total of the assessed values, and the quotient divided by one hundred gives the general revenue rate in cents on the \$100 valuation. The board fixes a rate for public free school purposes that will produce \$4 per capita of the children within the scholastic age as shown by the latest school census. These rates are then certified to the assessor. The commissioners' courts are directed to calculate the county rates with respect to the taxable values shown by the assessment rolls.

¹Laws of 1907, pp. 195, 464. Laws of 1909, p. 371. Rev. Civil Stats., 1911, arts. 7351-7353.

An obvious defect in this law is that the 20 per cent margin is insufficient to cover the contingencies of large deficiency appropriations, the fluctuations in revenues from other than the ad valorem tax, and the fluctuations in the cost and loss in the assessment and collection of taxes. The poll tax is a very uncertain source of revenue and delinquency in the payment of the ad valorem tax likewise varies from year to year. Thus the per cent of cost and loss to assessed taxes, including poll and general occupation, was 16.2 in 1910, 23.8 in 1900, 22.3 in 1895, and 18.7 in 1891. Deficiency appropriations vary greatly from session to session and occur to a degree that disarranges the best laid plans of the tax board. If the state treasury were provided with a good working balance, it could be drawn upon in cases of emergency; but as the system now is there is absolutely no flexibility, and the most recent result was that the state treasury entered in March, 1913, upon a disgracefully long period of deficiency. There were deficiencies in the treasury under the old system, and to return to it without modifications is not to be recommended. To the creditor of the state there is as little choice between the old and the present one as there is between the frying pan and the fire.¹ Another objection to the Automatic Tax Law is that it makes it possible for the governor to play politics with the tax rate. By vetoing appropriations, and with no opportunity for the legislature to pass them over his veto, he is able to manipulate the rate with a view to its effect on his future political ambitions. On the whole, however, the new arrangement is superior to the old. Its purpose is a more careful determination of the tax rate, and if the treasury had greater power in providing for emergencies there would be no deficits. Some curbing of the gubernatorial veto power would meet the last objection to the law.

¹Governor Colquitt criticized the law in his messages of February 22 and July 31, 1911, as unconstitutional in that it delegated to a board a legislative function.

CHAPTER 17.

CONCLUSION.

Attention may now be directed to some of the financial needs of the state. The growing importance of government is shown in Texas in the growth of state expenditures. Though there is complaint about public expenditures, Texas is not doing as much as some other states in proportion to her ability. The following table, compiled from the United States Census, shows the relative standing of some selected states in 1913, and the amounts given are the combined expenditures of the state, counties, towns and other local subdivisions per \$1,000 of taxable wealth at its full or true value.

	Con- servation, Sanitation, and Public Health	Charitable and Correctional	Education, Libraries, and Recreation	Highways	Protection to Persons and Property
California	\$.30	\$.88	\$ 4.95	\$ 1.16	2.65
Massachusetts	1.19	2.38	4.51	1.77	3.58
Tennessee .....	.53	1.39	3.48	1.04	2.05
Wisconsin .....	.38	1.08	3.07	.66	1.90
New York .....	.78	1.22	2.96	1.07	3.25
Georgia .....	.60	.92	2.80	1.82	2.21
Missouri .....	.40	.75	2.16	.93	2.35
Colorado .....	.25	.55	2.11	.93	2.49
Texas .....	.18	.46	1.86	.74	1.46
Oklahoma .....	.60	.24	.83	.20	1.29

Complaints as to expenditures are in some cases unintelligent and are mouthed about for political effect, but in the majority of instances the complaints do not so much represent antipathy to the purposes of the expenditures as they do dissatisfaction with the revenue system and public officials. By reason of the breakdown of the general property tax, the weight of taxation falls increasingly on the owners of real property, until in the cities the description of taxes as burdens is not inappropriate. Real property owners feel that there is injustice in this, and consequently oppose proposals which will mean additional taxation whose benefits are not obvious, immediate, and personal. Public officials are too frequently looked upon as mere "office-holders," and there is lack of confidence in their ability to get for the

public the most out of the money raised for public use. The two greatest financial problems which Texas has are to secure an equitable system of taxation and an efficient body of administrators. These are the problems of government in all of the American states and cities, but Texas has been more indifferent toward them than have many other states.

The present state constitution is becoming a patchwork, and an entirely new one should be framed. The constitutional provisions relating to taxation, the public debt, and the selection and compensation of public officials were laid down in 1875. At that time intangible personal property was relatively less important than it is now, the corporation was not as great a factor as at present, the urban element in the population was much smaller than now, and the conditions generally for the successful operation of the general property tax were, while bad enough, more favorable than they now are. In that year also, owing to the effects of the Civil War, the Reconstruction, and the panic of 1873, economy of the narrowest kind, in both public and private affairs, was a grinding necessity, and this was reflected in the binding restrictions upon the taxing and debt creating powers of the state government. In continuing to adhere to the general property tax, with its uniform rate upon all classes of property and with its decentralized system of administration, Texas is in the rearguard of the American states as respects methods of taxation. It is almost incomprehensible that in this year of the twentieth century there should be a state in which the complicated properties of railroads are assessed for the most part in piecemeal by local assessors, and in which there is no state supervision of these assessors in their assessment of the property of either individuals or corporations.

Various proposals have been made in and out of the legislature to cure the evils complained of. As a remedy for the varying proportions of assessed to true values among the counties separation of state and local revenues has been more advocated in Texas than has any other remedy. Only the complete withdrawal of the state from the taxation of real estate would make this remedy effective against the particular defect of the tax system to which it is applicable, but in view of state support of the public free schools, and the desirability of the continuance and

extension of such support, abandonment of the real estate tax by the state does not seem likely. Separation of sources of revenue is not a reform measure which is employed to any great extent by other states, and the tendency seems to be away from it rather than towards it. Even if it were a desirable reform measure for Texas, it would not be possible without a constitutional amendment.

If the property tax is retained as a state tax, some system of state control over assessments should be adopted. Decentralization of administration has failed in taxation in Texas as it failed in the administration of the public lands. Centralization should succeed decentralization, and the state board or commission should have the power to supervise assessments of property for state taxation, should have authority over assessors and collectors, and should assess the property of corporations which, like railroads, express companies, telegraph and telephone companies, do a state-wide business. The present state tax board is deficient in power and is wrongly constituted.

A central tax board or commission will not remedy the evil of the escape of personal property, especially of intangible personalty, from taxation. The weakness of the system which employs property as an index of ability to pay taxes is nowhere better exhibited than in connection with the taxation of personal property. Some of it should not be subject to taxation at all, for there results therefrom a vicious variety of double taxation. The taxation of vendor's lien notes and of the property which secures them, for example, is double taxation of an indefensible kind. Texas avoids similar double taxation in other cases; thus the shares of stock of domestic corporations are not liable to assessment when the property of the corporation is subject to assessment in the state, and there is no double taxation of bank stock and bank property. The Texas laws do not carry out the principle of exemption to its logical conclusion, for there is no valid reason for treating differently stocks on the one hand, and bonds and credits, such as vendor's lien notes, on the other. An interesting situation will exist as a result of the provision in the Federal Farm Loan Act which exempts from Federal, state and other taxation any mortgage executed to a Fed-

eral land bank. If this exemption provision stands, some farm mortgages will be taxable while others will be exempt.

Property as a measure of ability to pay taxes is inferior to income, and tax systems will work injustice until income takes the place of property as a basis. An income tax should distinguish between income from property and income from personal exertion, and, in accordance with modern notions of justice in taxation, the former and all funded income should be taxed at a higher rate than the latter. Real property should also continue to be liable for special assessment for improvements which are directly beneficial to it, and a moderate use of the land increment tax would be in accord with modern tendencies. The greatest obstacle to income taxation in the United States is inefficient administration, but Wisconsin is setting an example to the other states with her central supervisory board and her district assessors appointed according to the merit system. The assessors should be removed from local influences, but they should have the benefit of the knowledge of local boards. There should be co-operation between the state and national governments in the assessment of the income tax, and there should be a division of the yield of the tax between the state and local governments.

The constitution of Texas provides for an income tax, but in general the tax provisions of the constitution are obsolete. They do not permit separation of sources, or classification of property for purposes of taxation, or state supervision of assessment, or other methods of tax reforms which have been employed by the states of the United States and foreign countries. Another tax reform which has been advocated in Texas is "home rule" or "local option" in taxation. This would permit towns and cities to adopt such taxes as they saw fit. The state cannot afford to disassociate itself from all concern with local taxation, as this reform proposes, and for the reason principally that it must protect its own sources of revenue. Those proposing this reform are, as a rule, single taxers or advocates of partial exemption of improvements from taxation, neither of which proposals is just in the eyes of those who believe that every person should contribute to the support of the government in accordance with his ability, and that income is the best index of ability. The

single tax is not a tax measure, but is a social reform measure which includes the feature of government confiscation of the rent of land. It is not to be judged, therefore, as a fiscal measure, but those who insist that it should be so judged must meet the objections that it is a confiscatory measure and that the concept of income as a basis for taxation is more comprehensive, just, and adequate.

The exemption of the homestead from taxation is another proposed reform. The homestead law of Texas is already too liberal without this addition. Under a system of taxation in which the income tax is the principal tax and the property tax is a supplementary tax, it might be desirable to exempt real property up to a certain amount, but exemption under any other condition would be difficult to defend. Under the existing methods of taxation in Texas the small property owner is undoubtedly discriminated against, but the remedy is not the exemption of his homestead, but it is, so long as the property tax is retained, the fuller taxation of the larger owner and the abandonment of the discrimination in favor of acreage property and vacant lots.

The provisions of the Texas constitution relating to the state debt reflect the political, economic, and financial conditions which existed in 1875. Distrust of the legislative and executive branches of the government is shown in the small amount of debt which may be incurred, except under extraordinary conditions of war, insurrection, or invasion. This amount, \$200,000, reflects also the hard times existing in 1875. There should be some provision against the frequent deficits in the treasury which work such hardships upon the employees and creditors of the state. Authority should be given the treasury to make temporary loans to an amount sufficient to avoid deficiencies, or the warrants of the state should draw interest until they are called for payment.

A more sensible system of appropriations should be adopted, and to this end the governor and representatives of both branches of the legislature should act together as a budget council or committee in arriving at the needs of the various institutions and departments of the public service, in estimating the future revenue, and in framing the appropriation measure. The re-

sult of their work would be a budget which should be submitted to the legislature, and there should be limitations in the changes which the legislature might make and on the veto powers of the governor. There certainly should be a change from the existing arrangement under which the appropriation measure is one of the last measures to pass the legislature before final adjournment, with the result that the governor's veto of items goes unchallenged.

However laudable the purposes of public expenditures and however generous the provision for them, there will be waste and ineffective service, unless the public officials are honest and capable. There will never be satisfactory public officials until the "spoils system" is done away with, and the public service is looked upon as a profession. Those who follow this profession should be trained for it, they should be chosen for their fitness, and they should have security of tenure. The accounts of public officials who handle public funds should be regularly audited, and for this work an expert force of auditors is necessary. These auditors might also be expected to study methods of organization and conduct of the public business.

In conclusion, it may be observed that the responsibility for the shortcomings of the financial system and of government generally and the hope of their betterment lie with the average citizen. He has no one to blame but himself, and there will be no important reform until he ceases to be individualistic, ignorant, and indifferent as regards public affairs.

APPENDIX.

TABLE 1.
Revenues of the Republic.

	Direct Taxes	Customs	Licenses	Land and Land Dues	Mis- cellaneous	Total
1836-1838	\$ 100,455	\$ 133,649		\$. 21,123	\$ 5,552	\$ 260,789
1839		122,169			66,621	187,791
1840	56,130	164,789	16,922	218,250	141	458,235
1841	179,503	151,990	42,686	68,025	429	442,635
1842-1844	80,335	890,177	16,503		502	157,518
1844-1846	27,561	340,506	15,140		1,815	385,023

TABLE 2.
Expenditures of the Republic.

1836	\$ 495,295
1837	945,961
1838	231,401
1839	1,504,173
1840	2,174,752
1841	1,176,288
1842	198,051
1843	147,274
1844	147,850
1845	243,538

TABLE 3.
Classified Appropriations of the Republic.

	Civil	Army	Navy	Judiciary	Congress	Mis- cellaneous	Total
1837	\$ 150,000	\$ 760,000	\$ 150,000			\$ 33,307	\$ 1,033,307
1838	192,000	881,000				18,861	1,091,861
1839	550,000	1,140,000	380,453			37,066	2,107,521
1840	347,671	1,056,300	525,000	\$ 56,000	\$ 68,150	\$11,499	2,864,699
1841	255,100	111,050	100,000	48,000	95,800	85,380	605,330
1842	108,264	30,042	117,659	32,143	51,886	23,159	363,145
1843	75,100	10,500		15,000	26,451	28,100	156,151
1844	68,892	13,741	31,000	18,000	13,060	38,343	181,087
1845	74,145	32,842	8,000	16,350	32,527	32,289	186,153

TABLE 4.
Public Debt of the Republic.

1836	\$1,250,000
1837	1,090,984
1838	1,896,425
1839	3,855,900
1840	6,241,409
1841	7,446,740
1846	9,949,007

TABLE 5.
Treasury Note Circulation.

1838	\$ 684,000
1839	2,013,762
1840	3,287,902
1841	2,920,800
1846	2,674,447

EXPLANATORY NOTES, TABLE 1.

The sources from which the statistics for revenues are drawn do not always make clear whether the receipts are gross or net. The amounts given in Table 1 are net as nearly as it is possible to obtain them. The period covered is from September 30, 1836, to January 1, 1846.

The amount given for direct taxes for the three years ending September 30, 1838, includes some receipts from land dues and license taxes, while the amount given for land and land dues includes some license taxes. Miscellaneous for the year ending September 30, 1839, includes direct taxes, land and land dues, and license taxes.

EXPLANATORY NOTES, TABLE 2.

The statistics for 1836 and 1837 are the amounts of warrants drawn during the calendar years; those for other years are for the fiscal years ending September 30.

EXPLANATORY NOTES, TABLE 4.

1836. Morfit to Forsyth, September 4, 1836, in House Executive Document, 24th Congress, Second Session, No. 35.

1837. Gouge. *Fiscal History of Texas*, p. 73. Yoakum (*History of Texas*, Vol. II, p. 218) says about \$1,000,000 of unaudited claims should be added.

1838. Report of the Secretary of the Treasury, September 30, 1838, as published in the Telegraph and Texas Register, November 17, 1838. The amount of this debt was made up as follows: audited claims, \$775,255; funded debt, \$427,100; treasury notes in circulation, \$684,069. Unaudited claims are not mentioned in the report of the secretary.

1839. Report of the Secretary of the Treasury, September 30, 1839, as published in the Telegraph and Texas Register, December 18, 1839. This amount is made up as follows: funded debt, \$738,019; naval debt, \$755,907; treasury notes, \$2,013,762; audited claims, \$348,241.

1840. Gouge, *Fiscal History of Texas*, p. 275. To the amount given by Gouge is added the principal of the naval debt. Accrued interest on liabilities is not included because no statement of the amount of it is anywhere given. The debt was made up as follows: funded debt, \$1,617,069; treasury notes and eight per cent bonds in circulation, \$3,387,962; loan from the Pennsylvania Bank of the United States, \$305,261; naval debt, \$755,907; audited claims, \$175,209.

1841. Report of the Secretary of the Treasury, September 30, 1841, as published in the Telegraph and Texas Register, December 15, 1841, gives a total of \$5,782,788; Gouge (p. 275) gives \$7,704,328. The amount in Table 4 is compiled from both sources, and is made up as follows: funded debt, \$1,672,300; treasury notes and eight per cent bonds in circulation, \$3,770,760; loan from the Pennsylvania Bank of the United States, exclusive of accrued interest, \$310,037; audited claims, \$193,643; estimated naval debt, \$1,000,000; estimated unaudited claims, \$500,000. The last two estimates are those given by the secretary of the treasury.

1846. Statement of the comptroller, March 28, 1846. The amount is made up as follows: funded debt, \$2,486,800; treasury notes, \$2,674,447; loan from the Pennsylvania Bank of the United States, \$400,000; naval debt, \$740,029; audited claims, \$156,905; estimated unaudited claims, \$822,000; accrued interest on liabilities, \$2,668,824.

TABLE 6.**Retail Prices in the Houston (Texas) Market.**

(Compiled from the Telegraph and Texas Register.)

	Aug. 19, 1837	Sept. 1, 1838	Dec. 25, 1839	Sept. 9, 1840	Oct. 6, 1841	Sept. 14, 1842	Aug. 30, 1843	Aug. 28, 1844	Sept. 3, 1845
Bacon, per lb....	\$.20	\$.18	\$.50	\$.16	\$.15	\$.10	\$.09	\$.09	\$.09
Coffee, per lb....	.20		.45	.17	.16	.15	.15	.105	.125
Corn, per bu....		1.50	4.00	1.35	.75	1.30	.875	.875	1.00
Flour, per bbl....	30.00	20.00	30.00	10.00	11.00	11.00	8.00	8.00	8.00
Lard, per lb....	.20	.18	.75	.15	.14	.12	.125	.125	
Rice, per lb....	.12	.20	.30		.06		.08	.08	.09
Sugar, per lb....	.20	.17	.42	.06	.10	.09	.08	.08	.09
Nails, per lb....		.18	.35	.125	.10	.10	.10		
Lumber, per m.	70.00	75.00	110.00	30.00	30.00	30.00	18.00	18.00	18.00

TABLE 7.
Classification of Warrants Drawn on the General Revenue Fund and of Disbursements of Special Funds.

Years	General Administration	Financial Administration	Legislation	Public Buildings and Grounds	Public Printing	Militia	Judiciary	Education	Charities and Corrections	Pensions and Homes	Debt	Miscellaneous	Total
1848-1849	\$ 38,006	\$ 11,200	\$ 43,812	\$ 100	\$ 15,110	\$ 9,343	\$ 35,654		\$ 19,004	\$ 1,643		\$ 6,590	\$ 199,186
1850-1851	41,744	16,463	64,628	6,996	16,838	14,404	63,601		12,966	1,218		30,238	206,943
1852-1853	35,772	16,370	76,418	168,314	20,749	67,569	72,341		40,343	1,271	818,970	42,205	1,806,943
1854-1855	70,921	35,869	76,566	92,115	16,790	7,643	85,130	27,136	36,129	1,459	222,186	38,028	1,739,065
1856-1857	84,533	37,976	165,908	43,001	45,253	75,989	101,019	201,255	94,500	1,886	121,675	108,674	1,094,624
1858-1859	100,834	39,179	124,688	78,225	108,583	146,302	238,024	238,024	48,911	2,772	85,782	234,613	1,233,827
1859-1860	49,382	34,866	119,979	29,302	10,246	1,685,283	84,856	39,883	1,492,890	2,450	113,199	156,880	8,768,621
1860-1861	18,843	14,400	67,256	5,821	299		36,148		26,505			26,815	195,851
1866	44,962	20,555	112,238	5,925	8,492		107,477	2,683	49,092	1,541		877	352,292
1869	42,410	25,659	174,779	2,830	9,405		121,420	3,412	160,781	2,441	620	12,727	556,231
1870	59,818	29,738	279,872	27,238	7,675		96,544	223	64,740	1,825		20,246	600,553
1871	91,829	31,819	256,796	39,041	15,000		225,609	32,383	92,789	11,839		29,775	1,263,301
1872	89,828	34,064	214,444	10,005	48,211		246,319	599,393	91,027	1,766		37,481	1,686,359
1873	111,474	35,532	293,755	4,753	19,396		275,813	189,977	127,632	1,857		34,438	1,383,435
1874	133,326	51,700	208,595	13,382	55,291		364,377	796,310	198,203	1,550	112,944	98,777	2,273,280
1875	102,392	39,826	131,102	13,008	24,888		295,186	661,134	134,450	1,575	159,467	35,304	1,909,412
1876	106,398	40,628	191,348	9,768	18,292		283,125	637,833	146,282	2,673	204,697	14,023	2,446,072
1877	123,711	39,383	874	6,216	33,418		194,048	579,971	151,425	21,875	341,057	42,398	1,895,380
1878	119,180	39,272		2,699	13,642		173,903	727,769	230,840	21,470	363,609	4,437	1,863,865
1879	116,298	34,253	135,471	5,782	57,692		209,107	1,003,384	156,455	213,542	387,692	26,175	2,650,968
1880	136,468	54,439	4,484	2,298	44,635		905,084	777,728	136,082	29,135	1,294,582	37,001	2,155,072
1881	120,858	46,145	90,399	2,396	31,690		310,890	828,102	147,060	1,837	793,896	59,897	2,480,215
1882	154,619	60,903	42,616	4,467	20,916		374,155	696,714	287,840	1,837	1,230,310	112,864	3,683,427
1883	196,860	65,461	110,138		30,683		386,896	1,244,333	545,264	45,776	823,942	212,366	3,862,913
1884	171,789	70,812	46,964		18,648		481,538	1,676,129	442,564	103,869	206,338	6,504	3,890,836
1885	149,456	80,735	84,719		29,499		625,044	2,070,647	381,446	89,625	296,537	161,371	3,997,869
1886	129,883	71,778	150		30,625		614,784	2,907,656	331,086	57,825	296,537	39,179	3,481,051
1887	133,266	68,610	109,354		30,822		738,675	2,301,190	438,909	55,687	259,080	39,179	3,667,866
1888	134,040	68,368	43,203		46,156		844,197	2,643,622	474,614	53,217	261,872	35,513	4,641,772
1889	199,677	70,594	104,007		38,474		778,232	2,431,072	490,394	70,873	277,582	19,852	4,281,390
1890	204,990	68,721	2,235		47,091		568,492	2,437,946	490,394	70,873	277,582	19,852	4,281,390
1891	242,735	82,816	110,690		38,132		642,855	2,749,924	501,210	86,810	250,511	62,784	4,936,182
1892	237,073	97,768	24,518		14,103		794,417	2,742,956	600,747	78,330	452,048	51,693	5,223,964
1893	291,724	87,438	163,645		31,837		895,147	3,235,706	646,408	91,674	226,797	21,903	5,584,879
1894	217,363	96,902	1,021		68,753		1,018,674	2,710,423	580,105	88,499	230,850	2,360	5,145,128

TABLE 7.—Continued.
Classification of Warrants Drawn on the General Revenue Fund and of Disbursements of Special Funds.

Years	General Adminis- tration	Financial Adminis- tration	Legisla- ture	Public Build- ings and Grounds	Public Printing	Militia	Judiciary	Educa- tion	Charities and Correc- tions	Pensions and Homes	Debt	Mis- cellaneous	Total
1805	\$ 164,506	\$ 88,082	\$ 122,903	\$ 22,392	\$ 21,374	\$ 45,545	\$ 852,068	\$2,750,561	\$ 546,188	\$ 85,318	\$ 222,611	\$ 33,386	\$ 5,649,306
1806	168,358	84,104	22,089	23,194	23,484	30,690	940,441	3,105,205	539,223	21,102	220,59	27,086	5,170,313
1807	162,485	76,407	168,040	23,340	28,498	31,885	882,275	3,112,079	452,782	88,248	226,481	31,619	4,537,392
1808	175,003	76,946	5,266	84,401	34,241	32,329	692,775	3,333,309	537,078	91,034	223,824	79,402	5,383,628
1809	188,885	80,845	146,310	28,020	29,543	29,142	732,175	3,477,234	407,701	53,784	228,090	96,073	5,728,560
1800	213,097	86,364	61,959	28,430	29,734	40,274	733,163	3,483,272	828,828	304,080	224,674	13,449	5,941,490
1801	212,292	68,149	157,681	28,432	32,459	78,782	686,614	3,849,303	814,853	228,674	225,836	29,231	6,436,865
1802	238,166	96,881	59,132	42,483	26,649	53,750	687,635	3,908,678	963,249	298,162	224,069	66,010	6,816,848
1803	244,417	91,420	132,487	47,949	25,775	38,874	817,092	4,001,184	1,048,769	316,063	224,416	45,686	7,416,639
1804	231,189	93,311	2,862	31,051	21,226	51,256	743,539	4,604,820	1,354,624	373,487	213,772	70,183	7,804,808
1805	221,041	95,307	174,050	52,273	27,426	41,979	808,198	4,611,309	1,024,770	498,964	197,305	56,778	7,894,686
1806	256,837	106,148	21,358	43,590	21,896	54,065	804,251	4,588,404	945,577	507,563	179,092	90,065	8,189,876
1807	288,182	102,882	9,131	45,472	34,363	58,415	881,145	6,392,257	1,015,152	584,897	162,737	74,642	9,392,048
1808	318,303	102,552	108,524	39,077	33,193	42,676	838,177	7,417,150	1,364,066	470,726	170,107	274,305	10,068,310
1809	437,160	85,804	68,685	41,592	39,885	57,815	898,171	7,317,086	1,214,384	611,739	109,680	68,180	11,092,623
1810	394,622	73,092	180,985	46,027	32,098	59,734	898,984	7,317,086	1,214,384	611,739	102,516	47,337	11,017,760
1811	491,335	74,077	25,316	62,047	69,257	60,896	953,438	8,029,696	1,535,352	630,896	151,066	46,000	12,175,367
1812	454,597	78,542	219,881	73,478	51,541	55,570	1,013,348	8,774,858	1,706,244	627,892	64,845	112,633	13,298,131
1813	468,876	94,086	20,072	64,246	35,463	68,723	1,033,989	9,161,881	2,199,030	864,007	104,536	164,882	14,535,340
1814	824,406	89,145	301,679	80,511	84,840	123,143	1,057,107	9,446,222	2,861,876	1,558,171	199,691	292,821	16,819,798

EXPLANATORY NOTES, TABLE 7.

This table is intended to approximate as nearly as is possible a classification of the total expenditures of the state. The classification is only an approximate one, because of the failure of the financial reports of the state to give a classification of the expenditures of the general revenue fund. There is in the report of the comptroller a classification of the warrants drawn on the general revenue fund, but there is nowhere any classification of warrants paid. The amount of warrants drawn during the fiscal year rarely coincides with the amount of warrants paid, so that a classification of the former is not the equivalent of a classification of the latter. The classification of warrants drawn is, however, the nearest one we can come to a classification of the expenditures of the general revenue fund, and in this table that classification is adopted. As the expenditures of the general revenue fund are only a part of the total expenditures of the state, it is necessary in order to get the total to add to the amount of warrants drawn on the general revenue fund the expenditures of the available school, the available university, the Agricultural and Mechanical College and the other active funds. Table 7 is thus a hybrid of warrants drawn on the general revenue fund and of warrants paid by the other active funds.

Until 1883 there is in the report of the comptroller no classified summary of the warrants drawn upon the general revenue fund, and it was necessary, therefore, to compile the classifications. The normal difficulties of the task were increased by the typographical errors of the reports. Because of these errors the total of the items after classification did not agree in many instances with the total given in the report. In Table 7 the total used is that given in the report of the comptroller, and not the one ascertained by the writer, and for this reason the total in the last column is not in some instances the sum of amounts in the preceding columns. Beginning with 1883 the summary of the warrants drawn which is found in each report of the comptroller is used.

From 1848 to 1860 the classifications are of biennial statements of warrants drawn, but beginning with 1868 the classifications are of annual statements. There are no classifications obtainable for 1847, 1860, 1861, 1862, and 1863. The statement for 1863-1865 is for more than one fiscal year and for less than two, and that for 1865-1866 is for less than one year.

The table is incomplete by reason of the omission of the penitentiary expenditures and of certain expenditures by the Agricultural and Mechanical College. The only penitentiary expenditures included are those out of the general revenue fund of the state. The accounts of the agricultural and industrial operations of the penitentiary have not been published in a form that made possible their incorporation here. The Agricultural and Mechanical College receives certain moneys from the Federal government and under laws of the state regulating feedstuffs and fertilizers which are not accounted for in the reports either of the state comptroller or of the state treasurer or of the College. Some of these funds appear every other year in the reports of the state treasurer.

TABLE 8.
Net Expenditures.

Year	General Fund	Available School Fund	Available University Funds	All Other Funds	Total
1847	\$ 127,677				\$ 127,677
1848	115,972				115,972
1849	82,232				82,232
1850	148,055				148,055
1851	115,372				115,372
1852	1,282,578				1,282,578
1853	460,405				460,405
1854	474,245				474,245
1855	241,379	27,136			268,516
1856	593,642	95,130			688,772
1857	279,427	106,125			385,552
1858	644,004	105,332			749,936
1859	370,340	118,405			488,812
1860	718,616	110,100			828,726
1861	467,082	110,511			577,593
1862	906,809	50,954		6,000	1,053,773
1863	1,039,998	24,697		46,586	1,111,281
1864	1,775,085	23,734		40,502	1,839,323
1865	600,997	10,850		72,696	684,545
1866	233,069				233,069
1867	479,528	1,416		913	481,858
1868	349,968	2,063			352,051
1869	370,792	3,210		90,956	464,959
1870	599,155	61,060			660,215
1871	581,415	32,771		272,688	886,874
1872	940,598	497,238		196,138	1,633,975
1873	936,370	194,904		121,451	1,232,726
1874	1,236,043	790,121		468,646	2,494,812
1875	1,125,688	620,206		199,323	1,945,216
1876	1,091,571	609,841		514,986	2,216,349
1877	1,250,496	499,185			1,749,681
1878	1,224,739	682,480			1,907,220
1879	1,446,636	963,690		20,575	2,361,000
1880	1,342,794	733,559		878,483	2,922,342
1881	1,434,918	790,577		236,012	2,349,973
1882	2,441,389	913,750	15,140	394,431	3,747,246
1883	1,911,332	1,148,835	46,827	568,562	3,509,333
1884	1,730,068	1,485,549	121,792	66,321	3,253,114
1885	1,841,698	1,956,025	61,412	125,560	3,802,002
1886	1,565,904	2,420,966	63,821	19,119	3,872,647
1887	1,916,315	2,265,937	64,092	32,833	4,111,603
1888	2,067,221	2,544,728	53,245	37,607	4,520,485
1889	2,265,879	2,206,330	116,067	40,743	4,458,663
1890	1,908,727	2,308,562	90,914	32,229	4,162,960
1891	2,080,909	2,609,648	90,716	124,525	4,722,623
1892	2,352,156	2,535,047	94,064	48,499	5,055,922
1893	2,376,811	3,063,589	68,427	51,296	5,386,541
1894	2,146,832	2,432,604	60,480	57,623	4,525,500
1895	1,991,091	2,544,066	44,706	44,118	4,438,029
1896	2,843,870	2,002,562	56,506	18,009	5,557,803
1897	2,254,228	3,233,269	63,538	24,135	5,389,075
1898	2,153,650	3,069,912	83,087	19,964	5,140,261
1899	2,876,051	3,232,445	101,429	18,440	5,542,216
1900	2,732,856	3,061,471	105,607	21,814	5,734,218
1901	2,804,296	3,488,261	98,629	17,114	6,220,642
1902	3,183,717	3,564,496	44,786	14,254	6,619,264
1903	3,405,688	3,809,640	171,681	14,676	7,212,991
1904	3,562,971	3,848,584	135,502	10,618	7,372,131
1905	3,115,072	3,971,922	129,406	13,319	7,047,565
1906	4,175,422	4,218,383	136,229	57,516	8,385,447
1907	3,561,748	4,388,254	194,827	23,975	7,966,709
1908	3,805,694	5,389,944	160,566	44,067	9,257,356
1909	4,148,157	5,666,473	154,480		9,829,333
1910	4,362,098	6,507,075	127,731	77,673	10,868,388
1911	4,628,198	6,306,287	223,386	33,762	11,092,088
1912	5,119,563	6,788,459	198,103	20,724	11,909,594
1913	5,347,845	7,053,497	221,203	23,390	12,541,090
1914	6,996,816	7,348,323	118,298	843,291	15,111,188
1915	7,103,213	7,002,144	321,950	1,573,111	16,559,844

EXPLANATORY NOTES, TABLE 8.

In the construction of this table there is included among the expenditures of the general fund the interest paid on state bonds held by the special funds; but this interest is not included in the total. This explains why the amount in the "total column" is not the sum of the amounts in the preceding columns. Transfers among the funds are the principal items excluded in arriving at net expenditures. Refunds should also be deducted, but these are rarely itemized in the reports. Under available university funds are included the available fund proper and the endowment and available funds of the medical branch.

1877-1878. The item of interest on state bonds held by the school and other special funds in the treasury first appears in the financial report of 1877-1878. In the biennial report of the comptroller for these years the receipts and expenditures of the special funds, except the available school fund, are not given by years and, in the case of the available school fund, the receipts from interest on state bonds are not separated from those from interest on other bonds. The total net expenditures of the accounts for which there are not separate yearly statements were \$251,555.76, and of this amount \$194,453.39 was for the payment of debt. These funds received as interest on state bonds \$61,143.33 in cash and \$35,000 in state bonds. The net expenditures of these funds are not included in this table, for the reason that they cannot be ascertained.

The amounts of interest on state bonds which are included among the net expenditures of the general revenue fund and excluded from the total for all the funds were by years as follows:

1879	\$105,804	1889	169,357
1880	32,495	1890	172,473
1881	111,535	1891	183,176
1882	—	1892	173,815
1883	166,605	1893	163,583
1884	150,617	1894	172,040
1885	182,694	1895	185,453
1886	197,184	1896	262,742
1887	167,545	1897	185,616
1888	172,317	1898	185,853

1899	186,153	1908	142,916
1900	186,530	1909	131,786
1901	187,550	1910	206,190
1902	187,942	1911	101,547
1903	188,695	1912	152,246
1904	185,545	1913	64,845
1905	182,155	1914	194,536
1906	202,105	1915	130,575
1907	212,032		

1881. \$73,898.57 expended by the university land sales account for bonds is not included in this table.

1882. In the available school fund interest from state bonds is not separated from interest from other bonds. Only \$37,465 of interest received by other funds is deducted.

1895. Included among the university expenditures is a transfer of \$500 to the Agricultural and Mechanical College fund; but the amount is excluded from total expenditures. Five hundred dollars was transferred in each of the years 1896, 1897, and 1898, and \$1,000 in 1900, and they were treated as above.

1909. The condensed character of the report of the comptroller renders it nearly useless as an exhibit of the financial operations of the state government. Omitted from it are the statements of all funds, except the general revenue, the available school, and the permanent school funds. These omissions make it impossible to state completely net expenditures. The statistics for the available university fund are taken from the report of the board of regents for 1909-1910.

1914. The report of the comptroller for 1914 is so poorly compiled that it is impossible to ascertain from it the amount of interest on state bonds received by the different trust funds of the treasury. The amounts were obtained directly from the comptroller's office. The large increase in the amount of "all other funds" was due to the pension fund. Under all other funds is included \$48,153.14 transferred from the pure feed fund to the Agricultural and Mechanical College. The pure feed fund appears only in the report of the state treasurer, and as this report appears only every other year and covers only the year in which it appears, the statistics for this fund are obtainable only occasionally. The fact that this fund and that of

the prison commission are found only in the treasurer's report and the further fact that the treasurer's report covering one year is published only every other year, while the report of the Agricultural and Mechanical College does not contain an itemization of receipts, show the lack of system in making public the state's financial operations.

1915. Included under "all other funds" is \$77,964.18 transferred by the pure feed fund. This fund is made up of fees for the inspection of feed for livestock, and the proceeds accrue to the Agricultural and Mechanical College. The very great increase in the size of the amount under "all other funds" was due to the pension expenditures. These alone amounted to \$1,442,413.85.

The expenditures of the state on account of the penitentiary include only those out of the general treasury. On account of the absence of reports or of the defectiveness of those published, it was not found possible to include in these tables any other penitentiary expenditures.

TABLE 9.

Expenditures for Higher Education.

1883	\$ 96,204	1900	368,936
1884	189,496	1901	346,050
1885	164,650	1902	486,653
1886	84,876	1903	474,303
1887	91,659	1904	735,420
1888	96,691	1905	621,274
1889	228,443	1906	602,930
1890	134,216	1907	583,817
1891	140,173	1908	749,090
1892	207,805	1909	698,110
1893	174,300	1910	837,669
1894	259,160	1911	922,211
1895	196,152	1912	1,203,124
1896	203,222	1913	1,596,012
1897	376,681	1914	1,645,209
1898	245,745	1915	1,547,309
1899	229,065		

EXPLANATORY NOTES, TABLE 9.

This table is compiled from the reports of the comptroller, and the amounts given are the total of the disbursements of the university funds and the Agricultural and Mechanical College fund, and of the warrants drawn on the general revenue fund for the University, the Agricultural and Mechanical College, the state experimental stations, the College of Industrial Arts, and the normals. The amounts are gross amounts, as it was not possible to ascertain all refunds and deduct them from disbursements. If the amounts given in this table are deducted from the amounts in the column headed Education in Table 8, the expenditures of the state for common school education can be obtained.

The statistics for 1909 are incomplete because of the condensed character of the comptroller's report for that year. The expenditures of the Agricultural and Mechanical College fund are omitted, but those of the available university fund were obtained from the report of the board of regents.

TABLE 10.
Classified Net Receipts.

Year	Taxes	Sale of Bonds	Sale of Land	Lease of Land	Interest	Fees	Miscellaneous	Total
1847	\$ 58,653						\$ 126,147	\$ 184,800
1848	91,905		\$ 2,498			\$ 377	11,877	106,657
1849	93,670		1,632			991	10,198	106,491
1850	101,625					2,384	7,747	111,956
1851	93,337	\$ 30,000	10,931			5,124	4,358	152,751
1852	119,724		4,516		\$ 327,500	4,712	5,013,833	5,470,287
1853	34,061		9,898		192,566	4,686	5,035	746,249
1854	15,419				272,100		25,908	313,518
1855	18,348				181,400		39,945	239,694
1856	24,162				180,421		313,887	524,471
1857	24,940		30,166		178,516		29,456	293,079
1858	23,637		18,677		162,460		10,718	215,493
1859	211,148		27,541		144,788		30,714	414,192
1860	317,204		76,357		128,726		24,072	546,361
1861			36,038		59,279		349,112	434,430
1862	36,900	165,545	3,956		19,500	1,339	328,486	555,727
1863	79,740	18,450	32,454				874,492	1,025,137
1864	1,812,503		148,684		705	6,279	1,686,964	3,655,137
1865	708,071		9,323			1,505	1,126,759	1,846,559
1866	341,507						144,043	362,667
1867	328,678		337		54,641	4,736	13,883	402,279
1868	408,304		1,240		6,230	5,200	309	421,375
1869	578,214		2,226		6,156	6,156	44,858	631,456
1870	436,113		3,673			6,921	20,868	467,576
1871	523,106	264,834	3,228		139,530	9,478	10,745	951,012
1872	954,540	447,813	327		144,910	19,354	29,099	1,506,045
1873	1,175,759	151,502	1,415		169,046	28,271	5,081	1,531,077
1874	1,947,350	542,587	1,572		147,979	41,919	17,795	2,009,197
1875	1,230,127	719,236	39,843		156,756	55,919	15,286	2,217,171
1876	1,339,380	590,840	115,546		154,437	74,253	15,760	2,290,227
1877	1,506,470	101,125	32,937		187,913	67,350	8,731	1,994,554
1878	1,746,279		45,418		191,306	56,573	8,475	2,033,142
1879	2,048,850	206,061	99,806		133,966	54,337	3,280	2,546,363
1880	2,293,944	776,677	158,964		198,317	74,060	2,601	3,574,591
1881	2,506,117	9,250	308,498		14,187	106,457	3,385	3,076,477
1882	2,632,547	1,000	823,808		258,848	102,909	4,537	3,823,700
1883	2,439,741	1,000	1,874,685		365,254	96,306	3,198	4,780,475
1884	2,141,500		411,226	\$ 81,000	616,728	105,699	6,894	3,862,539
1885	2,419,131	200,000	192,324		674,082	103,168	235,981	3,824,698
1886	3,013,886		310,144		563,871	78,918	424,034	4,300,854
1887	3,274,013		376,915	25,228	707,943	105,702	144,223	4,634,092
1888	3,111,751		214,049	227,560	605,096	78,674	927,063	5,254,192
1889	2,277,806		328,800	241,275	833,231	39,396	60,683	3,781,275
1890	3,120,563		570,310	266,272	720,836	45,553	107,767	4,831,304
1891	3,430,619		647,501	319,673	901,071	40,840	244,305	5,674,101
1892	3,334,415		314,475	260,465	921,612	36,383	216,090	5,083,442
1893	3,286,228		305,034	191,637	960,068	36,584	353,983	5,136,536
1894	3,192,215		130,677	189,727	573,844	36,329	238,677	4,361,472
1895	3,229,100		186,972	179,527	755,001	33,854	293,585	4,678,102
1896	4,517,543		221,644	225,547	579,339	29,989	230,176	5,804,240
1897	4,032,098		199,458	279,240	704,437	28,882	322,274	5,566,391
1898	4,353,871		371,133	361,205	671,277	41,370	451,500	6,250,359
1899	4,497,997		493,549	469,102	578,711	30,746	160,222	6,244,329
1900	4,579,156		699,230	542,148	672,130	49,461	196,459	6,369,583
1901	4,501,051		997,072	480,522	725,340	65,694	351,805	6,932,387
1902	4,828,903		1,168,268	543,806	840,726	80,653	418,917	7,861,276
1903	4,967,907		704,213	445,854	809,970	91,706	268,710	7,348,453
1904	5,069,763		603,800	399,458	943,777	89,461	290,601	7,388,362
1905	5,225,354		461,169	406,871	1,026,604	102,325	321,628	7,543,954
1906	6,043,013		938,678	354,457	1,096,632	161,338	729,525	9,323,646
1907	6,784,067		1,004,292	300,063	1,202,392	289,080	58,374	9,638,259
1908	7,494,900		600,534	228,064	1,438,443	241,063	138,760	10,142,667
1909	7,019,782		825,460	103,839	1,585,044	259,680	1,866,478	11,739,272
1910	7,607,061		909,943	103,869	1,917,607	473,474	296,683	11,248,899
1911	7,274,860		575,046	99,733	1,970,046	468,945	31,241	10,419,879
1912	9,475,591		591,115	116,737	2,019,460	408,981	32,096	12,633,981
1913	9,254,468		690,379	158,409	2,246,660	373,134	555,103	13,279,310
1914	13,944,418		553,607	144,702	2,084,118	506,878	148,028	17,441,744
1915	12,546,148		254,642	180,501	2,085,669	570,699	125,187	15,492,306

EXPLANATORY NOTES, TABLE 10.

1851. \$36,000 received by the general revenue account from the sale of state bonds to the school fund is included as a net receipt.

1852. Under miscellaneous is included the \$5,000,000 in United States bonds received from the United States under the terms of the Boundary Act.

1856. Under miscellaneous is included \$298,421 refunded by the United States for that amount of the revenue debt of the republic paid by Texas.

1861. The interest coupons on the United States bonds held by the school fund are counted as cash receipts. State warrants received in the collection of revenue are not counted as the equivalent of cash receipts.

It is impossible to separate taxes from fees and miscellaneous receipts and all are included under miscellaneous.

1862-1863. The bulk of taxes is under miscellaneous.

According to a statement in the report of the comptroller for 1868-1869 the total received from sales of land during the Civil War was \$373,923.84. This is \$133,466.79 greater than the sum of the items in Table 9 for 1861-1865, and the difference is due to defects in classification of receipts as given in the reports of the state treasury. According to the report of the comptroller the following funds received the proceeds of land sales; the university fund, \$137,344.44; the school fund, \$11,910.50; the general revenue fund, \$224,668.90. Only \$225.52 of the receipts was in specie, while \$43,502 was in state warrants and \$330,196.32 was in Confederate currency.

1877-1878. In the report of the comptroller only the general revenue, the available school and the permanent school funds are given separately by years. The net receipts for the two years to the funds which are not separated by years are as follows:

From sale of state bonds.....	\$136,269.15
From sale of land.....	125,380.10
From interest	295.16
From taxes	4.30
From miscellaneous	56.42
Total	<u>\$262,005.13</u>

This failure of the report to separate the receipts by years vitiates the statistics in Table 10 for 1877-1878. Another defect in the report is the failure to separate the interest on state bonds held by the permanent school fund from the interest on the other bonds held by that fund.

1885. \$215,837.55 of the receipts under miscellaneous was from the Land Board, and the report does not state whether they were from sales or from lease of land.

1886. \$415,000 of the receipts under miscellaneous was from the Land Board.

1887. \$125,000 of the receipts under miscellaneous was from the Land Board.

1888. In miscellaneous is included a refund by the United States of \$922,541.52 expended by Texas on frontier defence.

Interest on state bonds and interest on land sales of the asylum funds were not separated by the comptroller, and the amount given is not included in Table 10.

1889. There is a failure again of the comptroller to classify the receipts of the asylum funds, and, consequently, their receipts are not included in Table 10. No classification of these receipts was made in the report of 1890.

Beginning in 1889 and extending through 1915 the receipts by the state department are not classified in the comptroller's report of the receipts from that department, and as their classification in the report of the secretary of state is not for the same fiscal period as are the receipts given in the report of the comptroller, the receipts by the secretary of state are classified under miscellaneous, except since 1906.

1906. Miscellaneous receipts are large because of a refund by the United States Government of \$375,418.94 for expenses incurred in frontier defence before the Civil War.

1907. Beginning with 1907 the classification found in the report of the secretary of state is followed, although the total of the receipts differs from the amount given by the comptroller. The amounts given by the secretary of state were received in his office during the fiscal year, but they were not all paid into the general treasury during the fiscal year. The comptroller gives only the amounts paid into the general treasury by the

secretary of state. An intelligent system of state accounting would enable one to find somewhere in the state reports a classified statement of this latter amount, but it cannot be found in any of the Texas reports. The receipts from corporation franchise taxes and from charter and permit fees are too large to be classified under miscellaneous, and this is the justification in following the report of the secretary of state since 1906. It was only in 1906 that his report became satisfactory enough to follow even to this extent.

1909. Miscellaneous receipts are large because of the heavy penalties collected by the state from companies adjudged to have violated the anti-trust act of the state. Receipts from the office of the attorney general amounted in 1909 to \$1,770,212, all of which has to be classified under miscellaneous.

The report of the comptroller for 1909 omits the statements of the special treasury funds, except the available school fund. A fit of executive economy caused a foolish condensation of the report of the comptroller, the result of which was a withholding of the statistics which an enlightened state should provide for its citizens and for those outside the state who are interested in state finances. The report of the board of regents of the University fortunately, though by accident, contains the statistics of the available university fund. The reports of the comptroller since 1908 are very defective in their statements of the university funds, but the blame for this should be divided with the general land office. The latter in making its deposits does not distinguish between land rentals and interest on land sales. The reports of the regents in 1909 and 1910 contain a correct statement of the available university fund, but this statement is omitted since 1910 and only an income and expenditure account is given. The latter account is followed for this table, though it is not just what is desired.

1912. There is a typographical error of \$600 among the items of receipts of the general revenue fund, and \$600 is added to miscellaneous to make up for this omission.

1914. The interest on land notes held by the available blind, deaf and dumb, lunatic and orphans' asylum funds can not be ascertained from the comptroller's report, but the amounts were obtained from the comptroller's office.

TABLE 11.
Classified Taxes.

Year	Ad- valorem Taxes	Poll Taxes	Income Tax	Salary Tax	General Occupation Taxes	Special Occupation Taxes	Franchise Taxes	Inheritance Tax
1846	\$ 64,727	\$ 15,310			\$ 13,830			
1847	75,125	17,372			27,739			
1848	95,294	21,429			21,013			
1849	92,109	21,288			17,872			
1850	76,071	11,520			16,228			
1851	85,609	12,040			23,309			
1852	121,476	14,253			15,855			
1853	149,398	16,687			22,081			
1854	191,143	18,338			37,039			
1855	225,270	20,982			27,570			
1856	242,969	22,413			28,993			
1857	276,663	24,463			26,940			
1858	244,158	25,597			27,115			
1859	282,939	26,787			33,633			
1860	367,894	27,746			52,280			
1861	465,494	28,521			43,097			
1862	709,609	66,776						
1863	1,675,953	53,798	\$ 50,275		13,692			
1864	1,790,959	75,201	121,739		57,275			
1865	150,992	50,529	130,302		172,279			
1866	153,436	58,048						
1867	255,861	99,484	38,901	\$ 1,187	133,701			
1868	214,883	95,743	14,600	1,087	118,936			
1869	224,508	95,895	22,791	1,015	146,023			
1870	257,800	103,858	27,325	1,346	148,149			
1871	1,212,741	171,378			262,406			
1872	1,100,655	158,291			207,330			
1873	1,117,934	168,254						
1874	1,222,509	179,714			361,228			
1875	1,254,354	198,322			295,012			
1876	1,288,246	211,034						
1877	1,594,828	464,808			385,943			
1878	1,516,122	500,211			377,934			
1879	1,519,516	531,778			425,229			
1880	1,594,833	542,604			608,919	\$ 27,000		
1881	1,428,000	575,446			472,858	30,542		
1882	1,259,844	439,554			608,054	48,558		
1883	1,582,612	464,120			617,606	40,430		
1884	1,809,182	473,495			806,468	61,283		
1885								
1886	2,305,836	342,418			676,630	39,809		
1887	2,186,283	354,668			688,535	40,338		
1888	2,225,511	372,878			565,363	47,940		
1889	1,486,596	371,429			662,323	53,676		
1890	2,228,948	395,013			759,111	88,839		
1891	2,503,146	409,384			857,531	97,406		
1892	2,343,557	427,305			912,743	92,595		
1893	2,192,780	446,619			892,962	93,146		
1894	2,236,177	455,572			822,000	128,485	\$ 23,350	
1895	2,180,248	471,645			792,100	133,791		
1896	3,556,475	484,091			835,659	126,908		44,609
1897	2,985,583	472,126			779,471	136,810		
1898	3,159,176	508,817			941,701	174,397		111,042
1899	2,169,968	516,140			916,800	184,077		
1900	3,294,203	530,873			918,981	204,524		207,663
1901	3,053,769	544,805			1,009,506	231,854		140,695
1902	3,404,289	561,358			1,057,464	229,148		153,534
1903	3,458,034	633,501			1,014,140	303,663		
1904	3,601,176	683,797			941,392	315,424		301,795
1905	3,705,375	642,353			922,429	381,480		
1906	4,244,869	723,777			970,365	578,533		430,539
1907	4,565,407	688,905			1,070,882	576,469		239,173
1908	5,196,861	772,491			1,199,582	720,063		597,063
1909	4,945,003	759,061			949,147	714,268		425,217
1910	4,910,406	804,066			852,490	770,698		449,667
1911	4,696,362	830,113			982,738	796,401		466,065
1912	6,776,899	844,349			905,800	807,765		494,417
1913	7,142,402	808,243			1,017,182	961,477		521,019
1914	11,455,906	920,127			960,104	1,026,610		537,449
1915	9,573,880	812,339			963,431	1,071,473		513,986

EXPLANATORY NOTES, TABLE 11.

The purpose in presenting this table is to give an approximate idea of the financial importance of the different taxes employed by the state government. In the cases of the ad valorem, the poll, the income and the salary taxes the statistics are of assessed taxes only; but figures for assessed taxes are imperfect because they are subject to deductions for errors in assessment, for costs of assessment, collection, and remittance, and for losses through the insolvency or the delinquency of the persons assessed. Up to 1882 the amounts of these deductions are not given nor are the deductions anywhere made in the financial reports of the state. Since 1882 the amounts are given, except those for costs of assessment and collection of each of the taxes. Since 1907 the cost of the collection of the poll tax has been separately itemized, but there is no separation of the costs of the assessment and collection of the ad valorem, general occupation, and inheritance taxes, and this is one of the prime defects of the report of the comptroller, because it makes it impossible to tell the net amount which the general revenue fund receives annually from each of these taxes.

The amounts of assessed taxes after each year in the table represents down to 1885 the assessments made that year. Beginning with 1886, however, the amounts are the assessments of the preceding year with deductions for insolvency, errors, and delinquency, and with the addition of the amounts received during the year from redemptions and from collections by the comptroller. The receipts from the special occupation taxes, the franchise taxes, and the inheritance tax are net. The table is thus a hybrid, but any other sort of a table is impossible because of the character of the financial reports of the state.

The collection of the franchise tax is by the office of the secretary of state. The practice of the state department of reporting its collections to the comptroller as well as the way in which the collections are listed in the report of the secretary of state make it impossible to co-ordinate the receipts from the franchise tax with the other receipts of the general revenue fund.

Down to 1907 there is no uniformity whatever in the periods for which receipts are reported by the state department. The periods and amounts were as follows:

January 18, 1895-December 1, 1896.....	\$ 44,609
December 1, 1896-January 1, 1899.....	111,042
January 1, 1899-December 31, 1900.....	207,663
January 1, 1901-August 31, 1901.....	140,695
September 1, 1901-August 31, 1902.....	153,534
January 1, 1903-August 31, 1904.....	301,795
September 1, 1904-August 31, 1906.....	430,532

Only in 1908 and 1910 is it possible to ascertain from the report of the secretary of state and the report of the comptroller the exact amount received by the general revenue fund from the several sources of revenue administered in the office of the secretary of state. The amounts given for the years after 1908 are the receipts during the fiscal year to the state department, but as one month's receipts are not reported to the comptroller until the following month, and then with unclassified deductions for refunds and exchange, the receipts to the general revenue fund and those classified in the report of the state department cannot be harmonized. The state department in its report to the comptroller's department makes no attempt at classification of the receipts, but includes them all under the meaningless item "office collections," and they appear under this title in the comptroller's report.

In 1909, 1910, and 1911 the ad valorem taxes on property in unorganized counties are the assessed, not the collected, amounts. The latter are not given by the comptroller. Beginning with the report of the comptroller for 1911 there are no separate tax statistics of any kind for the unorganized counties. Fortunately the receipts of this character are small, less than \$3,000, so that the receipts as given in Table 11 from ad valorem taxes are not much affected by the omission.

TABLE 12.**Tax Rates.**

Year	General Revenue Ad Valorem Cents	School Ad Valorem Cents	General Revenue Poll	School Poll	Confederate Ad Valorem Cents
1846.....	20		\$ 1.00		
1847.....	20		1.00		
1848.....	20		1.00		
1849.....	20		1.00		
1850.....	15		1.00		
1851.....	15		1.00		
1852.....	15		1.00		
1853.....	15		1.00		
1854.....	15		1.00		
1855.....	15		1.00		
1856.....	15		1.00		
1857.....	15		1.00		
1858.....	12.5		.50		
1859.....	12.5		.50		
1860.....	12.5		.50		
1861.....	16		.50		
1862.....	25		1.00		
1863.....	50		1.00		
1864.....	50		1.00		
1865.....	12.5		1.00		
1866.....	20		1.00		
1867.....	20		1.00		
1868.....	15		1.00		
1869.....	15		1.00		
1870.....	15		1.00		
1871.....	50		1.00		
1872.....	50		1.00		
1873.....	50		1.00		
1874.....	50		1.00		
1875.....	50		1.00		
1876.....	50		1.00		
1877.....	50		1.00	\$ 1.00	
1878.....	50		1.00	1.00	
1879.....	50		1.00	1.00	
1880.....	50		1.00	1.00	
1881.....	40		1.00	1.00	
1882.....	30		.50	1.00	
1883.....	30		.50	1.00	
1884.....	17.5	12.5	.50	1.00	
1885.....	25	12.5	.50	1.00	
1886.....	25	12.5	.50	1.00	
1887.....	25	12.5	.50	1.00	
1888.....	10	12.5	.50	1.00	
1889.....	20	12.5	.50	1.00	
1890.....	20	12.5	.50	1.00	
1891.....	16.66	12.5	.50	1.00	
1892.....	15	12.5	.50	1.00	
1893.....	15	12.5	.50	1.00	
1894.....	15	12.5	.50	1.00	
1895.....	25	20	.50	1.00	
1896.....	20	18	.50	1.00	
1897.....	20	18	.50	1.00	
1898.....	20	18	.50	1.00	
1899.....	20	18	.50	1.00	
1900.....	16.66	18	.50	1.00	
1901.....	16.66	18	.50	1.00	
1902.....	16.66	18	.50	1.00	
1903.....	16.66	18	.50	1.00	
1904.....	16.66	18	.50	1.00	
1905.....	20	18	.50	1.00	
1906.....	20	18	.50	1.00	
1907.....	12.5	20	.50	1.00	
1908.....	6.25	16.66	.50	1.00	
1909.....	5	16.66	.50	1.00	
1910.....	4	16.66	.50	1.00	
1911.....	12.5	16.66	.50	1.00	
1912.....	10	16.66	.50	1.00	
1913.....	23	17	.50	1.00	5
1914.....	12.5	20	.50	1.00	5
1915.....	30	20	.50	1.00	5

TABLE 12.
Assessed Values of Property.

Year	Real Property	Negro Slaves	Livestock	Money, Credits and Securities	Merchandise	Railways	Telegraph and Telephone	Other Property	Total
1846	\$ 17,776,101	\$ 10,142,198	\$ 2,920,378					\$ 3,543,501	\$ 34,391,175
1847	17,326,994	12,174,503	3,392,784					4,098,134	37,992,505
1848	20,777,412	13,398,490	4,174,475					5,461,606	43,812,837
1849	20,874,641	14,638,887	4,419,015					5,847,516	46,341,589
1850	21,807,670	17,776,500	5,292,270					6,675,175	51,814,615
1851	31,415,604	24,246,465	6,688,115					7,639,797	69,739,581
1852	33,116,772	28,688,900	7,977,990					11,090,433	80,754,094
1853	39,226,612	35,946,473	10,217,499					13,734,590	99,155,114
1854	49,961,177	46,501,840	13,465,805					17,032,705	126,981,617
1855	58,671,136	53,373,924	16,896,423					20,530,978	149,821,451
1856	62,182,307	58,389,400	19,174,163					21,553,065	161,304,025
1857	63,876,636	67,497,806	22,106,570					25,023,874	183,894,205
1858	73,913,178	72,835,928	25,029,422					21,836,290	186,696,818
1859	83,392,729	85,630,748	30,386,345					24,943,436	224,353,266
1860	122,294,764	106,688,920	36,556,702					25,772,258	294,315,639
1861	104,070,245	93,848,680	34,342,559					24,622,978	256,784,432
1862									280,243,825
1863									335,190,700
1864	119,245,886	137,645,327		\$ 28,806,144				72,494,629	368,191,886
1865	74,470,997		27,819,350					18,593,416	120,793,763
1866	86,755,991		29,115,248					122,749,123	170,005,545
1867	106,211,976		37,727,029					10,548,383	170,005,545
1868	91,417,148		29,919,778	6,090,245	9,457,912			10,013,293	144,290,544
1869	97,165,327		27,329,268	4,665,064	8,244,081			12,091,901	149,666,386
1870	106,798,165		31,036,651	5,768,761	12,009,568			14,890,633	171,818,086
1871	138,777,347		43,582,007	10,774,653	15,277,077			14,092,989	222,504,073
1872	127,323,643		37,979,743	10,423,448	13,357,213			18,806,479	208,508,372
1873	139,596,801		37,438,027	11,497,670	14,354,337			22,410,920	223,410,920
1874	149,793,361		39,530,129	5,677,988	4,370,937	17,514,865		28,504,065	244,510,558
1875	153,732,173		38,888,734	9,287,485	11,942,692	16,005,122	134,233	32,633,258	250,853,759
1876	157,645,698		40,731,850	10,694,430	13,403,390	16,577,568	134,233	38,935,765	257,632,009
1877	197,506,927		44,983,580	8,824,506	17,761,317	15,040,643	150,800	34,455,711	318,935,765
1878	187,830,897		45,711,927	6,697,984	15,371,935	15,229,082	138,987	303,292,424	303,292,424
1879	188,586,397		44,233,237	6,573,133	14,896,019	14,117,233	125,301	34,637,897	303,890,397
1880	204,784,779		45,917,460	7,276,479	16,262,735	16,048,067	182,072	38,458,704	318,970,786
1881	223,413,867		54,076,969	8,860,233	19,256,469	30,836,554	176,631	30,468,341	357,000,000
1882	250,137,004		72,896,314	9,794,312	22,311,922	30,410,320	299,243	34,277,111	419,925,476
1883	299,032,905		110,738,286	12,178,159	25,469,181	39,680,568	467,016	40,001,226	527,357,399

TABLE 13—Continued.
Assessed Values of Property.

Year	Real Property	Negro Slaves	Livestock	Money, Credits and Securities	Merchandise	Railways	Telegraph and Telephone	Other Property	Total
1884	\$ 347,846,953	.....	\$ 125,510,155	\$ 12,635,065	\$ 29,347,861	\$ 40,451,874	\$ 505,720	\$ 46,830,345	\$ 603,000,917
1885	375,800,594	.....	111,301,295	12,435,729	27,043,371	42,723,702	534,108	40,082,970	621,011,989
1886	395,205,678	.....	102,215,586	12,436,641	27,545,599	44,096,039	520,855	48,508,725	630,625,123
1887	421,694,327	.....	91,242,298	11,327,284	28,893,104	48,274,237	576,362	48,492,794	650,412,401
1888	443,934,429	.....	87,686,773	11,445,841	28,953,459	55,779,318	669,646	54,230,505	681,084,904
1889	480,154,683	.....	92,047,553	12,682,371	28,953,576	59,037,111	690,600	54,580,664	739,175,544
1890	524,302,193	.....	92,402,680	14,364,604	29,223,892	62,105,857	741,694	58,982,330	782,111,883
1891	577,637,063	.....	94,589,941	11,812,838	31,669,809	65,792,268	755,200	59,714,313	836,300,583
1892	597,340,868	.....	87,011,668	11,812,834	32,323,497	68,205,904	821,736	61,718,728	886,175,366
1893	607,963,397	.....	88,747,138	12,531,534	32,589,215	70,534,880	863,737	71,234,730	895,120,589
1894	609,870,497	.....	79,601,369	11,294,189	31,427,570	70,450,925	927,401	72,055,779	899,910,667
1895	609,154,496	.....	75,418,674	10,680,383	31,920,960	70,856,253	927,401	67,664,043	899,306,246
1896	587,560,471	.....	78,914,721	12,695,575	31,472,249	71,247,459	1,125,088	51,940,806	854,619,365
1897	592,474,702	.....	78,365,509	28,265,255	31,472,249	71,032,253	1,255,742	49,346,899	854,619,365
1898	581,008,483	.....	89,248,469	31,000,000	31,666,380	71,032,253	1,585,050	88,692,802	922,927,231
1899	587,216,258	.....	97,001,322	37,157,557	32,624,391	77,469,851	1,585,050	86,593,348	946,320,258
1900	594,632,460	.....	105,171,309	39,392,848	37,461,779	81,298,253	2,039,070	50,327,475	982,187,895
1901	625,701,755	.....	119,944,579	49,725,654	41,295,901	84,186,431	2,039,070	50,327,475	1,017,571,732
1902	652,691,691	.....	117,102,675	50,570,380	46,100,627	87,692,527	2,509,880	60,974,481	1,064,948,037
1903	691,250,327	.....	110,465,844	51,583,538	47,978,277	92,516,512	3,035,103	68,098,436	1,082,779,775
1904	705,737,167	.....	104,150,682	50,080,751	48,542,296	95,229,945	3,585,611	69,445,433	1,139,022,730
1905	743,550,216	.....	108,246,878	66,335,351	50,390,833	97,891,205	4,116,882	70,716,841	1,221,159,809
1906	774,892,250	.....	111,049,840	71,320,568	57,056,210	131,544,463	4,610,182	86,630,583	1,435,297,115
1907	863,332,461	.....	131,693,947	102,517,126	65,324,112	280,290,793	5,496,123	105,213,844	2,174,122,480
1908	1,372,311,612	.....	148,038,273	130,601,066	80,373,911	330,403,741	7,070,004	110,880,288	2,909,803,696
1909	1,482,817,155	.....	132,888,790	126,104,811	85,102,125	333,068,167	8,072,290	119,422,306	2,988,900,124
1910	1,535,392,372	.....	153,800,810	140,292,294	88,401,178	340,164,121	8,965,996	129,636,828	2,515,682,745
1911	1,622,453,998	.....	163,006,598	158,746,890	92,518,023	345,140,268	9,290,140	134,597,481	2,532,710,050
1912	1,650,188,381	.....	166,022,011	149,879,469	95,464,790	357,670,572	10,877,322	148,917,462	2,680,907,901
1913	1,742,844,170	.....	169,101,621	163,100,708	99,250,135	349,174,017	10,400,768	156,303,295	2,743,978,978
1914	1,781,973,536	.....	178,537,951	165,168,801	106,699,598	342,738,193	11,249,382	168,246,304	2,755,171,793
1915	1,863,200,948	.....	178,653,151	152,220,297	100,109,548	339,941,292	12,990,252	168,246,304	2,755,171,793

EXPLANATORY NOTES, TABLE 13.

The taxable values presented in this table are compiled from the original published reports of the comptroller and from published abstracts of the reports of that officer. Because of typographical errors in the reports the totals of the years are in some cases different from the sum of the classified items, but these differences are not important.

There was included under real property from 1846 to 1865 only rural real estate; town lots and land certificates were put among miscellaneous property. After, and including 1865, the class of real property includes all land and improvements and land certificates. There was no separate statement of the assessed value of railroads before 1874, and it seems probable that railroads were assessed before that date under the head of real property.

Only the total values for 1862 and 1863 can be given, and these are taken from the synopsis of the report of the comptroller as given in the Texas Almanac for 1864. The almanacs of 1863 and 1864 contain tables of the assessed value of the different kinds of property, but their sums fall so far short of the totals given in the table that classification is not attempted for these years. The assessed value of land in 1862, as reported in the Almanac, was \$80,810,890, and in 1863, \$108,125,716, but these are below the real amounts.

Beginning with 1909 all of the intangible assets are included under railroad values, except in 1913, when the report of the state tax commissioner is followed and all but \$181,945 of the intangible assets are assessed to the railroads and except in 1914 and 1915 when the amounts given by the comptroller in a special table are followed.

TABLE 14.
General Revenue Fund.

Year	Receipts	Expenditures	Trans- fers	Total Disburse- ments	Balance at end of year
1847	\$ 178,915	\$ 127,677		\$ 127,677	\$ 51,238
1848	97,211	116,161		116,161	82,287
1849	96,610	82,282		82,282	46,564
1850	101,491	148,007	47	148,055	1
1851	141,262	115,064	287	115,352	25,890
1852	Cash 1,278,865	674,542			Cash 624,677
	Bonds 5,000,000	608,000		1,282,580	Bonds 3,575,000
1853	230,115	463,155	1,385	464,490	Cash 390,301
					Bonds 3,575,000
1854	250,008	Cash 474,245			Cash 166,082
		Bonds 2,000,000		2,474,245	Bonds 1,575,000
1855	118,565	244,879		244,879	Cash 39,748
					Bonds 1,575,000
1856	595,275	Cash 480,797			Cash 154,226
		Bonds 115,000			Bonds 1,263,000
1857	126,115	280,247			Cash 16
					Bonds 1,230,000
1858	322,755	Cash 321,529	285		Cash 956
		Bonds 427,000		748,815	Bonds 546,000
1859	280,690	Cash 175,214			Cash 106,402
		Bonds 205,000		880,214	Bonds 305,000
1860	Cash 338,439	366,907			Cash 77,984
	Bonds 104,000	359,000		725,907	Bonds 50,000
1861	426,164	467,836		467,836	36,292
1862	Cash 490,975	419,154			Specie 2,454
	Bonds 579,655	579,655		998,809	Confed. Notes 105,628
1863	Cash 1,008,045	1,100,808			Specie 659
	Bonds 58,150	58,150		1,158,458	Confed. Notes 15,160
1864	3,356,632	1,890,617		1,890,617	Specie 1,496
					Confed. Notes 1,530,223
1865	1,567,304	674,978	9,774	684,753	Specie 2,708
					Confed. Notes 2,430,598
1866	336,136	233,089		233,089	111,857
1867	373,424	473,613	9,841	483,455	1,326
1868	414,001	350,208		350,208	82,938
1869	529,846	371,106	70	371,177	241,607
1870	409,243	508,498	1,308	509,807	51,043
1871	538,479	581,830		581,830	7,692
1872	941,283	941,213		941,213	7,761
1873	982,300	938,760		938,760	1,301
1874	1,304,063	1,248,146	56,845	1,304,991	873
1875	1,581,501	1,422,095		1,422,095	109,778
1876	1,096,067	1,091,626	107,455	1,199,082	6,764
1877	1,296,576	1,250,692	10,094	1,260,786	44,554
1878	1,291,249	1,225,689		1,225,689	110,113
1879	1,752,426	1,486,170	115,263	1,601,434	261,106
1880	1,904,255	1,344,360	113,811	1,458,172	707,189
1881	2,080,341	1,436,002	159,089	1,595,092	1,192,438
1882	2,168,974	2,534,290	300,577	2,834,868	526,545
1883	1,759,286	1,911,648	29,029	1,940,677	345,154
1884	1,544,964	1,738,769	6,041	1,744,810	145,298
1885	1,792,220	1,843,802	8,874	1,852,677	84,841
1886	2,097,744	1,567,111	52,011	1,619,123	568,668
1887	2,287,132	1,918,067	43,556	1,961,624	836,970
1888	3,063,436	2,056,050	637,280	2,693,330	1,250,126
1889	1,444,774	2,272,347	3,143	3,275,491	428,410
1890	2,125,254	1,908,727	26,311	1,935,039	618,622
1891	2,561,666	2,167,498	5,596	2,173,095	1,007,198
1892	2,080,823	2,555,927	70,760	2,626,688	450,332
1893	2,192,728	2,428,219	27,415	2,455,634	187,425
1894	2,008,390	2,149,124	8,248	2,157,372	35,443
1895	2,011,235	2,021,606		2,021,606	28,072
1896	2,866,390	2,884,700		2,844,700	106,753
1897	2,236,945	2,295,910		2,295,910	49,787
1898	2,916,253	2,158,766	994	2,154,761	811,279
1899	Cash 2,690,006	2,375,607	3,470	2,379,077	Cash 1,062,807
	Note 3,536				Note 3,536

TABLE 14—Continued.
General Revenue Fund.

Year	Receipts	Expenditures	Trans- fers	Total Disburse- ments	Balance at end of year
1900	Cash \$2,800,578	\$2,733,781	\$ 17	\$2,733,798	Cash \$1,159,587
	Note 450				Note 3,402
1901	2,865,238	2,851,455		2,851,455	Cash 1,173,370
					Note 2,773
1902	3,148,408	3,187,382		3,187,382	Cash 1,134,455
					Note 2,728
1903	2,803,582	3,408,523	5	3,408,528	Cash 529,510
					Note 1,515
1904	3,090,756	3,566,401		3,566,401	Cash 62,864
					Note 1,000
1905	3,135,486	3,121,239		3,121,239	Cash 77,111
					Note 800
1906	4,203,837	4,184,982	42	4,185,025	95,923
1907	4,161,587	3,564,896		3,564,896	602,612
1908	4,008,223	3,806,851		3,806,851	888,985
1909	5,013,272	4,159,011	45	4,159,056	1,743,208
1910	4,046,040	4,364,607		4,364,607	1,424,641
1911	3,624,208	4,328,450	107,274	4,635,725	413,124
1912	3,148,962	5,131,653		5,131,653	430,433
1913	5,269,531	5,306,348		5,306,348	333,615
1914	9,582,208	6,998,816	1,195,397	8,194,214	1,721,609
1915	6,028,990	7,195,506		7,195,506	536,103

EXPLANATORY NOTES, TABLE 14.

Transfers to the school funds are excluded from both the credit and debit sides of the general fund as given in this table. because such transfers represent neither a net receipt to, nor a net expenditure of, the fund. An appropriation out of the general fund to the school fund as, for example, that of \$2,000,000 of United States bonds in 1854, is counted among the expenditures of the general fund. Receipts in the form of the paper liabilities of the republic or of the state are also excluded. The following were the amounts of the paper liabilities of the republic which were received:

1847	\$101,045.60	1853	9,042.16
1849	34,961.24	1854	1,122.49
1850	32,220.15	1855	1,047.47
1851	7,750.74	1856	89.01
1852	34,771.90	1859	20,187.05

The following were the amounts of state warrants:

1851	\$ 1,604.54	1867	9,348.25
1861	604.01	1875	25,284.54
1862	11,493.87	1876	2,077.47
1863	289,769.66	1877	611.98
1864	138,254.51	1878	28.60
1865	66,990.25	1879	95.75
1866	122,944.82		

1852. To the \$572,000 of United States bonds expended in payment of the debt of the republic there is added \$36,000 used in canceling state bonds held by the school fund.

1856. The report of the treasurer gives \$290,000 as the amount received by the state from the United States as a refund for the revenue debt of the republic paid by Texas. It is ascertained from the biennial report of the comptroller that the refund amounted to \$298,421.72 and that the \$8,421.72 was expended in securing the refund. This amount is added to receipts and expenditures in this table. A transaction involving \$115,000 of United States bonds is not shown in the condensed form of the report of the treasurer which is used, and this amount is added to expenditures.

1858. Because of the change from October 31 to August 31 as the end of the fiscal year, this fiscal year has only ten months.

1860. Included among receipts are \$100,000 of United States

bonds and \$9,472.26 in specie transferred from the university fund.

1861. The biennial report of the comptroller for 1860-1861 gives \$8,520 as the amount of debt paid in 1861, while the abstract of the treasurer's report in the Texas Almanac for 1861 states erroneously that \$8,470 was the amount paid.

1862. The item bonds among receipts refers to United States bonds and interest coupons which were taken from the school fund for use for military purposes.

1865. The period covered is that from August 31, 1864, to June 8, 1865. The balance on hand on June 8, 1865, is stated by the comptroller to be \$353,614.82, but this includes \$3,375.33 of state warrants and excludes \$2,073,046.76 of Confederate notes of old issues which had been sent to the treasury of the Confederate government to be exchanged for notes of new issues.

1866. The period covered is that from October 13, 1865, to August 13, 1866. Included among receipts is \$7,683.67, which was the amount recovered from the treasury vault and broken safes after the robbery on the night of June 11, 1865.

1867. The period covered by the report is from August 14, 1866, to July 31, 1867.

1868. The report of the comptroller begins with September 1, 1867.

1874. A typographical error in the report of the comptroller results in the total of the classified items of receipts being \$2,000 less than the total given in the report.

1875. The report for this year gives as the balance on hand at the beginning of the year an amount which is fifty cents greater than the balance reported at the close of the preceding year.

1882. On account of a typographical error the total of the receipts is larger by \$1,000 than the total given by the comptroller.

1911. There is a typographical error of ninety cents on the side of disbursements, and this amount is added to the amount disbursed in payment of warrants.

1912. A typographical error results in the omission of \$600 from itemized receipts, but the total of the comptroller is followed in this table, and for classification purposes, \$600 is added to miscellaneous.

TABLE 15.
Available School Fund.

Year	Receipts	Ordinary Disbursements	Other Disbursements	Total Disbursements	Balance at End of Year
1847	\$ 5,885				\$ 5,885
1848	9,636				15,521
1849	9,981				25,503
1850	11,005				36,509
1851	11,542		\$ 36,000	\$ 36,000	12,051
					36,000
1852	13,922		17,000	17,000	Cash 8,974
					Bonds 53,000
1853	20,219				Cash 29,198
					Bonds 53,000
1854	Cash 63,511				Cash 92,705
	Bonds 2,000,900				Bonds 2,053,000
1855	124,629	\$ 27,136		27,136	Cash 190,197
					Bonds 2,053,000
1856	128,330	95,130		192,130	Cash 126,418
					Bonds 2,150,000
1857	170,784	106,125	46,000	152,125	Cash 145,077
					Bonds 2,196,000
1858	151,690	105,332	65,000	170,332	Cash 126,436
					Bonds 2,261,000
1859	174,400	118,465	48,000	166,465	Cash 134,370
					Bonds 2,309,000
1860	207,736	119,606	85,000	204,606	Cash 137,520
					Bonds 2,394,000
1861	Cash 85,489	123,120	23,500	146,620	Specie 76,389
	Warrants 8,518				Bonds 2,417,500
	Int. Coupons 17,675				Warrants 8,518
1862	Cash 63,336	50,954	637,175	688,129	Cash 31,251
	Warrants 2,721				Warrants 11,239
	Int. Coupons 19,500				Bonds 1,834,980
1863	Cash 51,876	24,697	66,668	91,365	Cash 49,912
	Int. Coupons 4,150				Warrants 11,239
					Bonds 1,780,980
1864	Confed. Notes 184,118	28,041		28,041	Cash 205,989
	Warrants 214,619				Warrants 225,838
					Bonds 1,780,980
1865	Cash 68,432	10,850		10,850	Specie 6,927
					Confed. Notes 256,683
					Warrants 11,239
					Bonds 2,073,684
1866	Cash 25,904				Cash 25,904
	Warrants 8,251				Warrants 19,400
1867	Cash 55,662	27,032		27,032	Cash 54,533
	Warrants 960				
1868	7,616	2,086		2,086	60,144
1869	2,045	3,210		3,210	58,079
1870	38,630	208	60,851	61,060	35,050
1871	168,865	68,271		68,271	196,096
1872	Cash 412,080	532,230		532,230	Cash 15,806
	Bonds 12,000				Bonds 12,000
1873	514,133	194,910		194,910	Cash 335,116
					Bonds 12,000
1874	602,432	790,304		790,304	Cash 148,744
					Bonds 10,500
1875	579,722	620,205		620,205	Cash 108,280
					Bonds 10,500
1876	612,702	609,960	2,907	612,868	Cash 108,026
					Bonds 10,500
1877	706,707	499,185	40,782	539,968	Cash 274,834
					Bonds 10,500
1878	745,138	682,480	26,563	709,043	Cash 320,428
					Bonds 1,000
1879	839,793	983,689	36,810	1,020,500	140,721
1880	707,351	733,559	34,819	768,379	77,693
1881	779,006	787,582	2,995	790,577	59,123
1882	1,111,633	913,750	59,267	973,018	197,738
1883	1,377,849	1,150,625		1,150,625	424,961
1884	1,327,428	1,485,540	5,861	1,491,401	454,979
1885	2,009,191	1,936,025	23,810	1,979,836	484,354

TABLE 15—Continued.
Available School Fund.

Year	Receipts	Ordinary Disbursements	Other Disbursements	Total Disbursements	Balance at End of Year
1886	\$2,132,189	\$2,422,005	\$ 18,537	\$2,440,543	\$ 175,980
1887	2,109,694	2,295,937	10,958	2,276,895	8,779
1888	2,630,259	2,541,488	13,600	2,555,088	83,949
1889	2,197,819	2,295,330	22,196	2,227,526	54,242
1890	2,297,954	2,303,730	8,199	2,311,930	40,296
1891	2,694,953	2,609,848	8,336	2,617,684	117,536
1892	2,792,936	2,535,052	7,876	2,542,928	367,543
1893	2,844,458	3,052,589	7,719	3,060,309	151,692
1894	2,334,163	2,431,425	3,030	2,434,456	51,389
1895	2,626,145	2,544,066		2,544,066	133,479
1896	2,843,433	2,901,982	1,870	2,903,552	73,060
1897	3,273,007	3,233,314		3,233,314	112,753
1898	3,054,948	3,069,912		3,069,912	97,789
1899	3,151,409	3,232,624		3,232,624	16,574
1900	3,318,276	3,081,471		3,081,471	253,379
1901	3,369,032	3,488,628		3,488,628	133,844
1902	3,636,891	3,565,244	2,801	3,568,045	202,690
1903	3,868,069	3,809,677	4,069	3,813,746	257,012
1904	3,724,442	3,848,496	118	3,848,614	132,840
1905	3,983,931	3,971,922		3,971,922	144,849
1906	4,109,683	4,218,383	38	4,218,421	56,110
1907	4,449,020	4,388,254		4,388,254	96,877
1908	5,404,913	5,389,934	10	5,389,944	111,846
1909	5,883,691	5,658,473		5,658,473	337,065
1910	6,276,592	6,507,075		6,507,075	106,491
1911	6,211,655	6,308,287		6,308,287	9,858
1912	6,838,394	6,783,450		6,783,450	64,793
1913	7,294,406	7,053,487		7,053,487	215,713
1914	7,149,680	7,348,323		7,348,323	17,070
1915	7,999,059	7,692,144		7,692,144	323,984

EXPLANATORY NOTES, TABLE 15.

Until 1852 one-tenth of the annual revenue of the state was set aside for educational purposes, but thereafter one-tenth of the annual revenue arising from direct taxation was set aside.

1851. The \$36,000 among disbursements was for that amount of 5 per cent state bonds authorized to be issued by an act of December 2, 1850. In 1852 these state bonds were replaced by 5 per cent United States bonds and additional United States bonds to the amount of \$17,000 were secured of the general revenue fund.

1854. By an act of January 31, 1854, establishing a system of schools, \$2,000,000 of 5 per cent United States bonds were appropriated by the state to a fund entitled the special school fund. Only the interest of this fund could be used, and it was to be distributed for the support of these schools.

1856. • An act of August 29, 1856, authorized the state treasurer to transfer to the general revenue fund the specie to the credit of the general school fund and to replace the same with 5 per cent United States bonds, and on July 1 of each year thereafter the specie to the credit of the school fund derived from one-tenth taxes was to be exchanged for United States bonds. The following were the amounts of specie exchanged for bonds under the provisions of this act:

1856	.....	\$97,000
1857	.....	33,000
1858	.....	65,000
1859	.....	36,000
1860	.....	71,000
1861	.....	19,000

The act of 1856 also consolidated the two school funds into one entitled the school fund.

1857. The acts of August 13 and August 26, 1856, provided for the investment of the school fund in the bonds of railroad companies incorporated by the state. It authorized the exchange of the United States bonds and the specie of the fund for ten year 6 per cent railroad bonds. In this table only the specie used is counted among the disbursements, and in 1857, \$13,000

of specie was so expended. In 1859 \$12,000; in 1860, \$14,000; in 1861, \$45,000. The transactions in which United States bonds were exchanged for railroad bonds are not introduced into this table.

1862. The \$637,175 among disbursements was a transfer to the general revenue fund of \$544,480 of United States bonds, \$35,175 of interest coupons from United States bonds, and \$57,520 of cash. Such a long period of time elapsed before the school fund was repaid that the transfer is treated for practical purposes as a disbursement. The condition of the fund can be best shown by this treatment of the transaction.

1863. The \$66,668 among disbursements was a transfer to the general revenue fund of \$54,000 of United States bonds, \$4,150 of interest coupons, and \$8,518 in cash. The explanation of treating this as a disbursement is the same as above.

1865-1867. There are no reports covering fully these years; but, as in the case of the general revenue, the reports are for very unequal periods.

1870. In the report of this year there appears for the first time the division of the school fund into the permanent and the available funds.

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Cost and Loss

Year	1 Gross Ad Valorem Taxes Assessed	2 Insolvent, Delinquent, and Errone- ously Assessed Ad Valorem Taxes	3 Receipts From In- solvents and From Redem- ption of Lands	4 1 and 3 Less 2	5 Gross Poll Tax Assessed	6 Insolvent, Delinquent, and Errone- ously Assessed Poll Tax	7 Receipts From Insolvent Polls
1886	\$ 2,328,794.95	\$ 125,978.96	\$ 11,213.20	\$ 2,214,029.19	\$ 511,388.44	\$ 168,969.64	
1887	2,299,450.20	185,090.96	21,493.86	2,136,303.08	518,005.00	163,336.30	
1888	2,374,791.85	166,406.69	34,875.84	2,143,261.00	518,906.80	146,028.32	
1889	1,518,816.74	97,334.11	27,199.55	1,448,682.18	528,063.30	157,234.06	
1890	2,298,606.71	147,888.16	33,528.10	2,174,245.65	562,343.00	167,329.82	
1891	2,466,837.56	161,382.39	33,922.14	2,500,759.67	573,801.50	166,786.25	\$ 2,369.49
1892	2,462,297.29	186,797.74	25,444.04	2,300,943.59	548,800.00	171,965.06	5,400.50
1893	2,316,590.96	187,103.97	35,963.42	2,165,440.43	615,189.00	172,356.44	3,787.25
1894	2,386,357.72	220,075.15	33,846.91	2,300,129.48	649,218.00	199,241.56	5,506.00
1895	2,345,607.10	229,770.11	39,803.67	2,155,790.66	677,206.00	211,309.41	5,750.00
1896	3,831,315.26	380,366.38	76,397.79	3,518,346.67	710,409.00	232,966.34	6,009.26
1897	3,200,463.24	348,477.16	107,318.88	2,908,824.96	732,442.00	256,015.26	4,099.81
1898	3,252,702.79	320,666.51	206,106.05	3,138,144.33	779,970.54	278,819.13	7,065.73
1899	3,247,964.72	297,408.78	196,500.24	3,147,051.18	768,129.54	256,172.71	6,183.44
1900	3,810,491.92	729,186.44	198,306.30	3,274,613.78	788,735.52	268,542.85	10,680.83
1901	3,277,894.26	439,584.73	196,496.90	3,034,776.43	800,484.08	294,522.56	8,843.42
1902	3,513,736.99	294,809.16	167,655.72	3,386,563.55	869,515.16	317,906.60	9,840.10
1903	3,587,067.62	265,173.32	171,945.89	3,443,840.19	808,808.77	275,794.01	10,396.37
1904	3,699,471.31	274,972.23	163,330.21	3,587,829.29	948,360.23	271,639.31	7,076.41
1905	3,773,506.92	265,574.42	184,880.54	3,692,813.04	963,042.26	297,472.00	6,783.09
1906	4,300,756.18	263,158.59	232,296.69	4,329,889.28	964,268.62	270,674.50	10,183.15
1907	4,646,807.06	269,438.31	203,974.05	4,581,342.82	968,948.50	285,335.55	5,292.63
1908	5,370,315.43	369,774.13	185,487.63	5,186,028.93	1,020,277.62	293,949.50	6,163.45
1909	5,034,432.89	294,294.09	197,736.42	4,937,875.22	1,030,416.14	275,830.50	4,475.68
1910	4,964,432.92	296,881.94	235,018.63	4,903,569.61	1,058,761.33	259,692.50	4,968.14
1911	4,799,844.21	300,790.02	194,166.40	4,693,220.50	1,078,923.14	252,435.00	3,625.81
1912	7,075,613.07	468,123.72	193,910.16	6,776,399.51	1,125,279.61	294,832.26	3,022.31
1913	6,802,783.07	445,007.98	339,618.96	7,142,402.74	1,130,656.75	329,116.37	6,708.51
1914	12,016,451.82	876,307.39	315,762.01	11,455,906.44	1,159,596.51	246,806.93	7,397.55
1915	10,376,833.02	883,034.84	380,082.30	9,873,880.48	1,128,946.17	319,950.02	3,351.86

TABLE 17.
Public Debt.

Year	3%	4%	5%	6%	7%	8%	10%	Floating Debt	Total
1846.									\$ 9,949,007.05
1849.									11,055,694.71
1850.			\$ 36,000						
1851.									12,436,991.34
1861.									3,179,875.12
1862.								\$ 2,825,875.12	8,179,875.12
1863.								2,249,619.80	3,840,619.80
1865.								6,184,701.75	8,110,832.58
1870.			216,641	\$ 445,467				34,345.75	696,483.98
1872.			216,641	489,967				945,377.40	2,238,885.61
1873.			216,641	517,467				1,064,184.57	2,806,192.78
1874.			216,641	520,367				1,885,126.72	3,615,934.98
1876.			216,641	520,367				1,710,588	5,269,222.98
1878.			216,641	1,395,367				345,000.36	5,767,882.57
1879.			216,641	2,045,867				62,574.46	5,684,091.67
1880.			216,641	2,042,367				10,300.41	5,577,175.62
1881.		\$ 4,620	1,333,941	2,042,367				10,300.41	5,577,228.62
1882.		2,730	1,285,541	2,084,367				10,300.41	5,544,228.62
1883.		2,630	1,151,068	1,712,200				10,300.41	4,686,688.62
1884.		2,630	1,151,068	1,712,200					4,119,806.82
1885.		2,630	1,068,900	1,912,200					4,237,730.00
1887.		2,630	1,269,900	1,912,200					4,237,730.00
1889.		2,630	1,269,900	1,873,000					3,904,730.00
1890.		337,130	1,421,000	1,872,500					3,992,630.00
1895.		337,130	1,421,000	1,647,000				413,890.24	4,405,890.24
1896.		337,130	1,421,000	1,647,000				688,594.53	4,685,624.53
1899.		334,545	1,421,000	1,647,000					3,992,630.00
1900.		334,500	1,421,000	1,647,000					3,989,445.00
1904.		298,000	1,421,000	1,647,000					3,989,445.00
1905.		334,500	1,421,000	1,647,000					4,170,193.82
1906.		334,500	1,421,000	1,647,000				180,702.82	4,652,591.00
1908.		1,695,000	1,410,000	1,647,000				663,191.90	3,989,400.00
1910.		3,298,700	333,000						3,977,900.00
1911.		3,298,700	333,000						3,976,300.00
1913.		3,298,700	334,500						4,218,729.00
1914.		3,298,700	334,500					342,620.00	3,976,300.00
1915.		3,298,700	334,500						3,976,300.00

EXPLANATORY NOTES, TABLE 17.

The amount of the debt in 1846 is that reported by the comptroller to the legislature, March 28, 1846.

The amounts in 1849 and 1851 are those contained in the reports of the auditor and comptroller in those years.

The debt given for 1861 is the amount of the deficiency reported by Governor Houston, January 19, 1861. That for 1862 is the debt statement on January 1, 1863, as contained in Governor Lubbock's message of February 5, 1863. The amount for 1865 is that reported by Messrs. Pease and Palm to Provisional-Governor Hamilton, October 30, 1865.

The amounts given for the public debt from 1867 to 1883 contain the amounts of the bonds of doubtful validity, including the comptroller's certificate of indebtedness held by the university fund, but they do not contain the accrued interest on the debt of doubtful validity. The latter interest cannot be followed in its accrual.

The statement for 1879 is for the date January 21, 1879, and that for 1881 is for January 1, 1881.

The floating debt in 1894, 1895, 1904, 1905, and 1913 is simply the amount of the excess of warrants drawn over warrants paid. There are other years in which there was a similar excess, but in these other years there were sufficient funds in the treasury to take up the excess. There were deficiencies also during fiscal years which were removed before the end of the year.

TABLE 18.
Ownership of the State Bonded Debt.

Year	Owned by Trust Funds in the Treasury	Owned by Individuals	Year	Owned by Trust Funds in the Treasury	Owned by Individuals
1865	\$ 320,367.13	\$ 805,762.88	1893	3,235,040.00	756,990.00
1866	320,367.13		1894	3,241,540.00	750,490.00
1867	320,367.13		1895	3,241,540.00	750,490.00
1868	537,008.21		1896	3,244,540.00	747,490.00
1869	537,008.21	125,100.00	1897	3,245,040.00	746,990.00
1870	537,008.21		1898	3,254,040.00	737,990.00
1871	537,008.21		1899	3,261,200.00	728,245.00
1872	711,008.21	602,600.00	1900	3,291,200.00	718,200.00
1873	711,008.21	630,100.00	1901	3,272,200.00	717,200.00
1874	711,008.21	1,319,800.00	1902	3,301,600.00	687,800.00
1875	711,008.21	3,983,588.00	1903	3,318,600.00	670,800.00
1876	1,586,008.21	3,826,373.80	1904	3,372,000.00	616,800.00
1880	2,342,108.21	3,224,820.00	1905	3,372,000.00	610,300.00
1882	2,584,108.21	1,992,530.00	1906	3,385,600.00	603,800.00
1883	2,643,268.82	1,476,630.00	1907	3,849,500.00	139,900.00
1884	2,797,408.82	1,322,490.00	1908	3,858,000.00	136,400.00
1886	2,965,640.00	1,272,090.00	1909	3,961,000.00	37,900
1887	2,991,900.00	1,245,830.00	1910	3,976,200.00	1,300
1888	3,017,100.00	1,230,630.00	1911	3,976,200.00	
1889	3,017,100.00	1,230,630.00	1912	3,976,200.00	
1890	3,017,100.00	1,230,630.00	1913	3,976,200.00	
1891	3,218,140.00	1,019,590.00	1914	3,976,200.00	
1892	3,229,540.00	768,190.00	1915	3,976,200.00	

TABLE 19.

The *Tri-Weekly Telegraph* under date of July 15, 1864, contains the Fox Table of currency values. It says: "The following table showing the fluctuations in the gold market here (Houston) has been furnished us by Mr. Henry S. Fox, a reliable merchant of this city. One dollar in gold has been worth the following amounts in Confederate treasury notes at the times mentioned:"

1861.

Sept. 1-30.....	par.
Oct. 1-31.....	1.05
Nov. 1-30.....	1.10
Dec. 1-15.....	1.25
Dec. 15-30.....	1.50

1862.

Jan. 1-Feb. 8.....	1.50
Feb. 8-Apr. 8.....	1.75
Apr. 8-20.....	2.00
Apr. 20-May 12.....	2.50
May 12-22.....	2.75
May 22-June 12.....	3.00
June 12-19.....	3.25
June 19-Aug. 9.....	3.50
Aug. 9-Sept. 14.....	3.75
Sept. 14-Oct. 31.....	4.00
Nov. 1-30.....	3.75
Dec. 1-31.....	4.00

1863.

Jan. 1-5.....	4.00
Jan. 5-18.....	4.50
Jan. 18-Feb. 9.....	4.75
Feb. 9-Mch. 19.....	5.00
Mch. 19-Apr. 5.....	4.75
Apr. 5-14.....	5.00
Apr. 14-May 3.....	5.25
May 3-7.....	6.00
May 7-17.....	7.00
May 17-June 20.....	8.00
June 20-July 4.....	7.00
July 4-7.....	8.00
July 7-8.....	8.50
July 8-10.....	9.00
July 10-Aug. 6.....	9.50
Aug. 6-Sept. 9.....	10.00
Sept. 9-24.....	11.00

Sept. 24-Oct. 5.....	12.00
Oct. 5-12	11.00
Oct. 25-Nov. 7.....	12.00
Nov. 7-13	11.50
Nov. 13-16	12.50
Nov. 16-17	13.25
Nov. 17-20	15.00
Nov. 20-25	15.50
Nov. 25-Dec. 6.....	16.00
Dec. 6-14	17.50
Dec. 14-16	18.00
Dec. 16-31	19.00

1864.

Jan. 1-3	19.00
Jan. 24-31	24.25
Feb. 1-4	24.00
Feb. 16-22	20.00
Feb. 22-Mch. 4.....	21.00
Mch. 24-Apr. 5.....	22.75
Apr. 20-May 5.....	26.00
May 25-31	44.00
June 1-3	43.00
June 30	28.00
July 1	31.00

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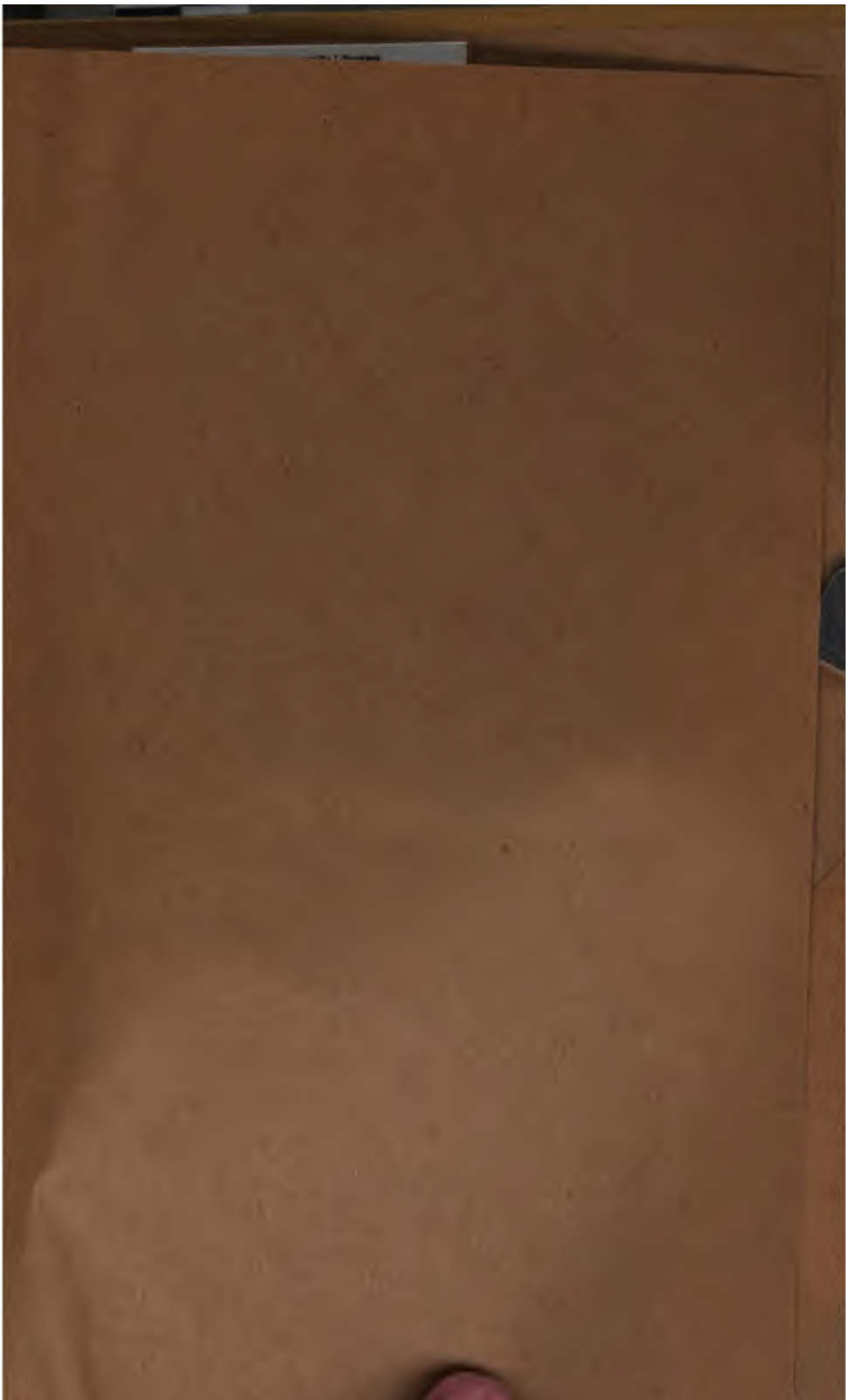
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